The Constitution of the Methodist Episcopal Churches in America

BARCLAY

THE CONSTITUTION

OF THE

METHODIST EPISCOPAL CHURCHES

IN AMERICA

BY WILBUR FISK BARCLAY

Secretary of the Constitutional Commission of the Methodist Episcopal Church, South

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WITH AN INTRODUCTION BY

JNO. J. TIGERT, LL.D.

Editor of The Methodist Review

NASHVILLE, TENN.; DALLAS, TEX.
PUBLISHING HOUSE OF THE M. E. CHURCH, SOUTH
BARBEE & SMITH, AGENTS
1902

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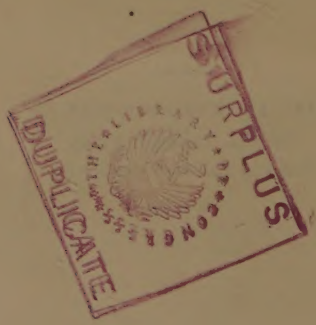

RESPECTFULLY DEDICATED TO

John Christian Keener

SENIOR BISHOP OF THE METHODIST EPISCOPAL CHURCH, SOUTH

PREFACE.

THE veto message of the bishops to the General Conference of the Methodist Episcopal Church, South, in 1894, marks an epoch in the constitutional history of the Church. The fact that it was the first episcopal veto ever interposed made it sufficiently notable to attract wide attention; but its real significance lay in something far deeper than mere novelty, and its effect was more far-reaching than to the mere arrest of an unconstitutional act. It reminded the Church with tremendous emphasis that the plan for the introduction of lay delegates into the General and Annual Conferences, adopted in 1866, was an amendment and extension of the constitution itself; that as such it was as binding upon the General Conference as was any part of that instrument, and that all amendments of it since 1866 by mere resolution of the General Conference were null and void.

When an exceptionally clear-headed and strong ecclesiastical lawyer, Dr. Paul Whitehead, of Virginia, assailed the position of the bishops on the floor of the General Conference and in the Church press, it became evident that there was room for doubt, and the author, for his own satisfaction, determined to go to the root of the matter and ascertain, if he could, what was the true state of the case. While leisurely pursuing his investigations he was appointed a member of the Constitutional Commission of the Church, and shortly thereafter was invited to read a paper on the constitution before the Preachers' Institute of the Louisville Conference.

Under these circumstances he naturally began to look about for what had been written upon the subject generally, and, failing to find anywhere what he considered an adequate treatment of it in all its parts from a calm, judicial, and uncontroversial standpoint, he was led into a critical study of the original sources, which are, in the main, the journals of the General Conference. These investigations interested the author, and have interested others; for on a memorable night in June,

some two or three years ago, while the thermometer registered near the nineties, quite a number of the members of the Preachers' Institute kept awake (in relays) to hear an exposition of some of them. At the close they were kind enough, by resolution, to express approval of the paper and request its publication. Out of it has grown this brochure, which is now diffidently submitted to the judgment of the larger Methodist public, with the hope that it may serve to awaken an interest in a too much neglected subject.

It has not been the aim of the author to minutely dissect the constitution, or to comment in detail upon its various provisions; but rather to give the history of its development as a whole, and then treat it in its broad relations to the Church, to the General Conference, and to the sovereign constituency back of the General Conference. The interesting and engaging subject of the nature and constitutional functions of the episcopacy have been fully and exhaustively treated by other writers, and are therefore but lightly and incidentally touched upon. The questions raised by the Restrictive Rules (What are the standards of doctrine? What is the plan of itinerant general superintendency? Who owns the Publishing House?) are all full of interest, but discussion of them has been purposely omitted.

The author has not seen fit to attempt an elaborate definition of the word "constitution." As used in this essay it means simply the written instrument adopted by the last convention of the traveling preachers, in 1808, creating a delegated General Conference and defining its powers; and such alterations in or additions thereto as have been lawfully made since that time. The question as to whether or not the Articles of Religion and General Rules also belong to the written constitution of the Church, and hence should be included in a discussion of the constitution, he has chosen to ignore as not specially profitable, and it is mentioned here only to forestall criticism of the omission. He has, however, in the last sentence of Chapter IX. ventured to make a practical suggestion which has reference to the question in its bearing upon the proposed revision of the constitution.

The references given in the footnotes from time to time indicate sufficiently the works consulted by the author; but in

addition to them he desires to acknowledge indebtedness to a stimulating series of articles in the New York *Christian Advocate* by Dr. J. M. Buckley, entitled "Storm Centers in the General Conference," and to Hon. Hiram Sibley's very able essay on the "Organic Law of the Methodist Episcopal Church." He is also specially indebted to Dr. J. J. Tigert for helpful suggestions and for his painstaking care in passing the book through the press.

WILBUR FISK BARCLAY.

Church Extension Rooms, Louisville, Ky., March 4, 1902.

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INTRODUCTION.

As a member of our constitutional commission and as secretary of that body, Mr. Barclay has had unusual incentives and opportunities for the study of the questions discussed in the following pages. He has brought to his task a trained legal mind, acute and sober, and has used great diligence in probing to the bottom the several problems he has undertaken to solve. The result is a clear, condensed, and, I think, accurate statement of the course of the history which Mr. Barclay has had occasion to bring under review, and a very strong legal and historical presentation of the grounds on which his conclusions rest. Whether one accepts or rejects these conclusions, or holds them in suspense, he will be obliged to concede the conspicuous ability and lucidity of the argumentation by which they are supported, and the general breadth and fairness with which the author states and replies to objections. A strong and wholesome intellectual breeze blows through these pages, which every student of the questions involved will thoroughly enjoy.

Nevertheless, it seems to me that Mr. Barclay has not wholly escaped the temptation, more than once illustrated in Methodist history when those learned in the civil law have undertaken to expound the law of the Church, of basing his argument too confidently upon assumed parallels between the principles of our civil and our ecclesiastical government. The truth is, Methodist government and law are unique, having a genius and history all their own. The contention of the General Conference itself, of McKendree, McTyeire, and others, that there was originally no tribunal for constitutional questions—save as the voice of the traveling elders in the Annual Conferences might make itself heard—needs to be historically understood.

It had no reference to such matters as (1) the trial of a bishop, (2) the appeal of a traveling preacher, or (3) the determination of the right of a delegate elect to sit in the Gen-

eral Conference—questions expressly or by common consent committed to the jurisdiction of the General Conference—but to those questions in which the General Conference as a delegated body with limited powers should, as an agent, come into collision with its principal, and for the decision of which it would of necessity be a partial and, therefore, an unfit tribunal. Mr. Barclay appears to be unquestionably correct in his exposition of the three points mentioned above, and has done excellent service in calling attention to them. But the danger of constituting a party in interest, and that party an agent with derived and defined powers which it might be tempted to overstep, a supreme court, is too obvious to be argued. Consequently our Church has embodied in its constitutional law an independent tribunal of this nature, whose necessity had been recognized with great unanimity from 1820 to 1870. Mr. Barclay's conception of a supreme judicial authority of the General Conference seems to approximate that developed in the Methodist Episcopal Church since 1844. I do not believe that doctrine is solidly based. Bishop McKendree's so-called veto was but an appeal from the creature and agent, the General Conference, to that sovereign, the body of traveling elders, of whose authority Mr. Barclay makes so much in other connections. Episcopacy and General Conference are alike agents holding a charter from those elders; consequently in an issue between these two chartered authorities the appeal lies to the supreme author of the charters, whose agents the chartered authorities are.

The most original and attractive doctrine, presented with great force by Mr. Barclay in these pages, is that the sovereign elders can enact by majority vote legislation prohibited to the General Conference by the Restrictive Rules. Simple and beautiful as the doctrine appears to be, and forcefully as Mr. Barclay argues it, it does not seem sound for the following reasons: (1) If it had been the intention of the fathers of 1808 to set up or to retain the body of traveling elders as a legislature superior to the General Conference to determine by majority vote measures falling within the area prohibited to the General Conference, then the constitution, instead of the cumbersome machinery provided for the alteration of a Restrictive Rule, would have simply said, "All power re-

served in the above Restrictions from the General Conference shall be exercised by the body of traveling elders in such manner as from time to time they may agree upon"; (2) the enactment for the alteration of the Restrictive Rules ordains specifically the manner in which the residual sovereignty of the traveling elders shall be exercised, namely, through the medium of the General Conference by an extension of its legislative powers, and by this specific provision excludes all others, according to the legal maxim, *inclusio unius exclusio alterius;* (3) the fact that in all the crises which have arisen in nearly a hundred years of government under the constitution in both Methodisms, such as those of 1844 and the recent adoption of the new constitution in the Methodist Episcopal Church, when the wisest ecclesiastical statesmen of Methodism have been compelled to view the questions at issue in every light, no man has been wise enough to hit upon the simple substitute of a majority vote of the traveling elders for the two-thirds majority in the General Conference and the three-fourths majority of the traveling elders, would seem to be conclusive proof that the alleged reserved power does not exist; (4) Mr. Barclay's argument proves too much, and appears to reduce to an absurdity; for, if an effort to alter a Restrictive Rule should fail of the three-fourths majority, then the traveling elders could turn about, in the exercise of their reserved powers, and accomplish the object aimed at as a piece of independent legislation on their part, by a simple majority vote; as they are the sovereign makers of the constitution, which was ordained by a vote of the majority, this majority action of theirs might be extended to bestowing additional powers on the General Conference, as in the first instance, or to the entire abolition of the existing constitution by the substitution of a new one; in either case contrary to the express provisions of that instrument. In a word, the "reserved powers," unspecified in the constitution, are of such a nature as completely to nullify the "limitations and restrictions" under which the General Conference is ganted "*full* powers to make rules and regulations for our Church." Both law and history, I fear, give their verdict against Mr. Barclay's contention.

Finally: I may be wrong in the surmise that the method for altering the first Restrictive Rule was omitted from the

Discipline in 1832 for prudential reasons; but it still seems clear that the provision in the constitution of 1808 was never constitutionally repealed. It is consequently still in force.

It is due both the author, and the writer of this Introduction, to say that the candid statement of my objections to some points in a letter to the author immediately after the reading of his MS. led to the restatement and strengthening of his argument; and that Mr. Barclay has cordially expressed his preference that I should make, as I proposed, a "moderate and modest" statement of my dissent on these points. For the rest, I believe this publication to be most opportune and likely to have a really useful mission in our Church. I cordially commend it to the notice of the members of the approaching General Conference, to which the report of the constitutional commission will be made, and to all interested in the questions which it so ably discusses.

JNO. J. TIGERT.

NASHVILLE, 17 *March*, 1902.

CONSTITUTION OF THE METHODIST EPISCOPAL CHURCHES IN AMERICA

CHAPTER I.

The Beginnings of Methodist Polity—The American System Prior to 1808.

In its inception, the Methodist system of Church government was purely personal, with Mr. Wesley as autocrat. In a remarkably vigorous passage inserted by him in the Large Minutes,[1] the "Revised Statutes" of the Wesleyan Connexion, he gives an account of the development of his unique authority, showing that his followers had voluntarily attached themselves to him and, without solicitation upon his part, had placed themselves under his guidance and leadership. Whenever they chose, they could withdraw without censure; but while they remained, he exacted absolute obedience. When assembled in Conference they were present at his request and only as his advisers; he governed. His was a power which "the providence of God had cast upon him, without any design or choice of his."

"What is this power? It is a power of admitting into and excluding from the Societies under my care; of choosing and removing stewards; of receiving or of not receiving helpers; of appointing them when, where, and how to help me; and of desiring any of them to meet me when I see good. And as it was merely in obedience to the providence of God and for the good of the people that I at first accepted this power, which I never sought—nay, a hundred times labored to throw

[1] See Tigert's "Constitutional History," p. 21; Neely's "Governing Conference," p. 10; Sheerman's "History of the Discipline," p. 82; "Wesley's Works," American Edition, Vol. V., p. 220.

off—so it is on the same considerations, not for profit, honor, or pleasure, that I use it at this day. . . . But some of our helpers say, 'This is shackling freeborn Englishmen'; and demand a free Conference—that is, a meeting of all the preachers, wherein all things shall be determined by most votes. I answer: It is possible after my death something of this kind may take place, but not while I live. To me the preachers have engaged themselves to submit, to serve me as sons in the gospel; but they are not thus engaged to any man or number of men besides. To me the people in general will submit, but they will not thus submit to another. It is nonsense, then, to call my using this power 'shackling freeborn Englishmen.' None needs to submit to it unless he will, so that there is no shackling in the case. Every preacher and every member may leave me when he pleases; but while he chooses to stay, it is on the same terms that he joined me at the first."

Until the organization of the Methodist Episcopal Church, at the Christmas Conference, in 1784, the Methodist preachers in America sustained to Mr. Wesley precisely the same relation as their English brethren; they were his "sons in the gospel," and entirely subject to his will. At their first regular Conference, held in 1773, at which ten preachers received appointments and 1,160 members were reported in society, they headed their journal "Minutes of Some Conversations between the Preachers in Connexion with the Reverend Mr. John Wesley," following the form of the English minutes, and adopted a resolution declaring their complete subjection to Mr. Wesley as their spiritual head and lawgiver. As, however, it was necessarily impos-

sible for him to superintend in person the work in America as he did that in England and Ireland, he appointed a personal representative, whose authority was fully recognized by the American preachers. During the period of the war for independence this relation was greatly disturbed, and even a temporary schism resulted. Into the troubles of that period, however, it is not necessary to enter.

By 1784 it had become apparent not only to the Americans, but also to Mr. Wesley himself, that if American Methodism would accomplish its mission of "spreading scriptural holiness over these lands" its tireless itinerants must become something more than "preachers in connexion with the Reverend Mr. John Wesley," and their multiplying flocks something more than societies in connection with the Church of England.[1] A general Conference of the preachers was therefore called at the suggestion of Mr. Asbury, to meet at Baltimore on December 24, 1784—the famous Christmas Conference. The preachers there assembled proceeded to organize themselves and their brethren and flocks into an independent body, the Methodist Episcopal Church in America, and provided for it a regular code of laws, drawn in the main from the Large Minutes of the English Wesleyans.

This organizing Conference adjourned without mak-

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[1]At the Deer Creek Conference, 1779, it was asked, "Shall we guard against a separation from the Church, directly or indirectly?" and the answer was, "By all means." (Printed Minutes, 1813, p. 19.) The connection with "the Church" was ill-defined, and not recognized by the denomination, but, such as it was, was jealously preserved by the conservative majority of our fathers.

ing any provision for future meetings of a similar character, and none assembled until eight years later. Such legislative measures as were proposed during this period were sent around from one Annual Conference to another, so that all the preachers might have opportunity to vote upon them; and the majority decided.[1] Such an arrangement was, of course, very cumbersome and unsatisfactory.

In 1792 another general convention was called to meet at Baltimore, and assembled there in November of that year. This body took in hand the matter of all legislating for the Church, and, having provided for the quadrennial reassembling thereof, it thereby obviated the necessity of passing measures around to the Annual Conferences in future. The new assembly was not designed to usurp any of the functions of the Annual Conferences; it was simply a joint session of all the Annual Conferences, called together to transact legislative and other business of the connexion at large. It was to be called the "General Conference," and henceforth those two words formed the appellation of a well-defined legislative body, and not, as theretofore, a mere phrase descriptive of an assemblage of all the preachers. Its membership was defined as consisting of all the traveling preachers in full connexion. In 1800 the further qualification was added that they must have traveled four years, and in 1804 it was provided that the four years should be counted from the time of reception on trial by an Annual Conference.

[1] The general rule was as stated in the text, but there were some exceptions. During this period, also, the experiment of the Council was tried. It is not germane to our purpose to go into these matters in detail.

The General Conference thus constituted was the supreme power in the Church. The government was a democracy of the Athenian type, with the General Conference as its popular assembly, the laity, in so far as ecclesiastical power was concerned, having no standing.

The burden of assembling all the preachers at one time and place for a General Conference was felt from the beginning. At the very first session of the quadrennial series of that body, in 1792, "the preachers generally," said Jesse Lee in his "History of Methodism," "thought that in all probability there would never be another Conference of that kind, at which all the preachers in connexion might attend. The work was spreading through all the United States and the different territories, and was likely to increase more and more, so that it was generally thought that this Conference would adopt some permanent regulation which would prevent the preachers in future from coming together in a General Conference." This reasonable expectation, however, was disappointed, and sixteen years rolled around before it was realized. In 1800 James Tolleson introduced a resolution looking to a delegated General Conference, and giving the argument in favor of it:

> Whereas much time has been lost, and will always be lost in the event of a General Conference being continued; and whereas the circuits are left without preachers for one, two, and three months, and other great inconveniences attend so many of the preachers leaving their work, and no real advantage arises therefrom;
>
> *Resolved,* That, instead of a General Conference, we submit to a delegated one.[1]

This proposition was rejected by the Conference, but

[1] This resolution furnishes an illustration of the meaning

the agitation would not down. It was not brought forward again in 1804, being postponed, the chroniclers say, by common consent to 1808. The situation in 1804, however, greatly accentuated the need of reform. The number of preachers entitled to seats was about two hundred and forty, while the number in attendance was only one hundred and seven. The Conferences nearest by (the Philadelphia and Baltimore) between them had present sixty-six members, while the other five Conferences (the Virginia, the South Carolina, the New England, the New York, and the Western) had present only forty-one members. This centralization of power in the hands of two Annual Conferences was contrary to the American idea, and extremely distasteful to the brethren nearer the borders.

There were, then, four weighty reasons why a delegated General Conference should be substituted as the supreme legislative body of the Church: (1) The General Conference as then constituted was becoming too large; (2) it was practically impossible for all its members to attend it; (3) those who went left their flocks unattended for from one to three months, and it was extremely important to avoid this as far as possible by reducing the number of such absentees; (4) the necessary absence from its sessions of those who occupied remote fields tended to concentrate all power in the hands of the preachers nearest the place of meeting, which, prior to 1812, was always Baltimore.

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still familiarly attached at that time to the words "General Conference"—to wit, a Conference composed of all the qualified preachers. The antithesis is between *general* and *delegated*.

CHAPTER II.

The Constitution of 1808.

When the General Conference met in Baltimore in 1808 the time seemed ripe for the proposed change to a delegated General Conference, and the Church seemed ready. There were then seven Annual Conferences: the Baltimore, the Philadelphia, the Virginia, the South Carolina, the New York, the New England, and the Western. Four of these had united in a memorial to the General Conference earnestly recommending the proposed reform. At that time there were about two hundred and sixty preachers entitled to seats in the General Conference; and of these, one hundred and forty-six, or a safe majority of the whole number, were in the four petitioning Conferences. Of their number, however, only forty-eight attended that General Conference; while of the one hundred and fourteen entitled to seats from the other three Conferences, eighty-one were present.

The memorial was as follows:

The memorial of the New York Conference to the General Conference of the Methodist Episcopal Church in the United States, to sit in Baltimore the 6th of May, 1808:

Very Dear Brethren: We, as one of the seven eyes of the great and increasing body of the Methodist Episcopal Church in the United States, which is composed of about five hundred traveling preachers and about two thousand local preachers, together with upward of one hundred and forty thousand members; these, with our numerous congregations and families, spread over an extent of country more than two ——— miles from one end to the other, amounting in all probability

to more than one million of souls, which are, directly or remotely, under our pastoral oversight and ministerial charge, should engage our most sacred attention, and should call into exertion all the wisdom and talents we are possessed of to perpetuate the unity and prosperity of the whole connexion, and to establish such regulations, rules, and forms of government as may, by the blessing of God in Jesus Christ, promote the cause of that religion which is more precious to us than riches, honor, or life itself, and be conducive to the salvation of souls among the generations yet unborn. The fields are white unto harvest before us, and the opening prospect of the great day of glory brightens continually in our view; and we are looking forward with hopeful expectations for the universal spread of scriptural truth and holiness over the inhabitable globe. Brethren, for what have we labored? for what have we suffered? for what have we borne the reproach of Christ, with much long-suffering, with tears, and with sorrow, but to serve the great and eternal purpose of the grace of God, in the present and everlasting felicity of immortal souls?

When we take a serious and impartial view of this important subject, and consider the extent of our connexion, the number of our preachers, the great inconvenience, expense, and loss of time that must necessarily result from our present regulations relative to our General Conference, we are deeply impressed with a conviction that a representative or delegated General Conference, composed of a specific number on principles of equal representation from the several Annual Conferences, would be much more conducive to the prosperity and general unity of the whole body than the present indefinite and numerous body of ministers collected together unequally from the various Conferences, to the great inconvenience of the ministry and injury of the work of God.

We therefore present unto you this memorial, requesting that you will adopt the principle of an equal representation from the Annual Conferences, to form, in future, a delegated General Conference, and that you will establish such rules and regulations as are necessary to carry the same into effect.

As we are persuaded that our brethren in general, from a view of the situation and circumstances of the connexion, must

be convinced, upon mature and impartial reflection, of the propriety and necessity of the measure, we forbear to enumerate the various reasons and arguments which might be urged in support of it. But we do hereby instruct, advise, and request every member who shall go from our Conference to the General Conference to urge, if necessary, every reason and argument in favor of the principle, and to use all their Christian influence to have the same adopted and carried into effect.

And we also shall, and do, invite and request our brethren in the several Annual Conferences which are to sit between this and the General Conference to join and unite with us in the subject-matter of this memorial.

We do hereby candidly and openly express our opinion and wish, with the firmest attachment to the union and prosperity of the connexion, hoping and praying that our Chief Shepherd and Bishop of our souls, the Lord Jesus Christ, may direct you in all wisdom, righteousness, brotherly love, and Christian unity.

We are, dear brethren in the bonds of gospel ties, most affectionately yours, etc.

By order and in behalf of the New York Conference, without a dissenting vote. FRANCIS WARD, *Secretary.*

Cocyman's Patent, May 7, 1807.

The above memorial was concurred in with practical unanimity—only five dissenting votes all told—by the Eastern (or New England) Conference on June 3, 1807; by the Western Conference on September 16, 1807; and by the South Carolina Conference January 2, 1808. The Virginia Conference met February 2, 1808, the Baltimore on March 2, 1808, and the Philadelphia on March 20, 1808. There is no record to show that either of them acted upon this memorial, though it can hardly be doubted that it was laid before them. Two of these three Conferences were grouped about Baltimore, where, up to that time, the General Conferences had always met. It was easily possible for

nearly all of their preachers to attend the General Conference and take part in its proceedings. This privilege and this preponderating power in the councils of the Church, they hesitated to surrender; so that it may be readily seen that a project which met with unanimous favor in the more remote Conferences might find near the center strong opposition. It was not easy to give up life seats in so distinguished a body of ecclesiastics.

It will be observed that the demand for a delegated legislature was based, in the memorial, upon the grounds which have already been noticed;[1] and that not a word was said about the limitations to be placed upon the powers of the new Conference. There is not the slightest indication in the memorial that there was any concern upon that subject. Dr. Bangs,[2] writing thirty years later, says that prior to 1808 it was considered that the unlimited power of the General Conference to "alter, abolish, or add to any article of religion or any rule of Discipline" was too great for the safety of the Church and the security of its government and doctrine. He quotes no authority, however, and I have seen no contemporary evidence that there was any anxiety or special concern upon that account. The memorial does not hint it. The meat of the matter desired was a delegated body, endowed with ample powers to conserve the "unity and prosperity of the whole connexion."

The story of the progress of the legislation which resulted in the ordaining of a delegated General Conference, with a carefully drawn definition of its constituent parts and its powers as told in the journal, is as follows:

[1] See page 16. [2] "History of Methodism," Vol. II., p. 177.

Monday afternoon, May 9: Read the memorial of the New York Conference to the General Conference on the necessity of a delegated General Conference, in which the New England, the Western, and the South Carolina Conferences concurred.

Tuesday morning, May 10: Bishop Asbury having called for the mind of the Conference, whether any further regulation in the order of the General Conference be necessary, the question was put, and carried in the affirmative.

Moved by Stephen G. Roszel, and seconded by William Burke, that a committee be appointed to draw up such regulations as they may think best, to regulate the General Conferences, and report the same to this Conference. Carried.

Moved by Bishop Asbury that the committee be formed from an equal number from each of the Annual Conferences. Carried.[1]

Moved by John McClaskey, and seconded by Joseph Aydelot, that the committee consist of three members from each Annual Conference, to be chosen by their own members present. Lost.

Moved by Stephen G. Roszel, and seconded by William Burke, that the committee be formed by two from each of the Conferences, chosen by their respective Conferences. Carried.

Ezekiel Cooper and John Wilson, from the New York; George Pickering and Joshua Soule, from the New England; William McKendree and William Burke, from the Western; William Phoebus and Josias Randle, from the South Carolina; Philip Bruce and Jesse Lee, from the Virginia; Stephen G. Roszel and Nelson Reed, from the Baltimore; and John McClaskey and Thomas Ware, from the Philadelphia Conference —were elected.

The memorial was now in the hands of the committee, where it remained six days. Dr. Charles Elliott, in his "Life of Bishop Roberts" (quoted at length in Tigert's "Constitutional History," page 302), gives an

[1] This was excellent parliamentary tactics, for it insured to the memorialists a majority of the committee that was to frame the measure for which they asked. Four Conferences had indorsed the memorial, while three had declined to do so.—*Tigert's "Constitutional History," p. 301.*

interesting account of what occurred in the committee. A sub-committee was appointed, consisting of Ezekiel Cooper, Joshua Soule, and Philip Bruce, to draft a report. The only friction in the committee was over the restrictive rule concerning the "itinerant general superintendency," which was advocated by Soule. Cooper favored a diocesan episcopacy. Soule prevailed, and the full committee, "all," we are told, adopted Mr. Soule's paper, with some slight modifications. It is hardly probable, however, that all the committee of fourteen agreed to this report, as Mr. Lee's subsequent conduct is entirely irreconcilable with such acquiescence.

We return now to the official journal:

Monday morning, May 16: Read the report of the committee relative to regulating and perpetuating General Conferences.

Whereas it is of the greatest importance that the doctrines, form of government, and general rules of the United States[1] Societies in America be preserved sacred and inviolable;

And whereas every prudent measure should be taken to preserve, strengthen, and perpetuate the union of the connexion;

Therefore, your committee, upon the maturest deliberation, have thought it advisable that the third section of the Discipline shall be as follows, viz.:

Sec. III. Of the General Conference.

1. That the General Conference shall be composed of delegates from the Annual Conferences.

2. The delegates shall be chosen by ballot, without debate, in the Annual Conferences respectively, in the last meeting of Conference previous to the meeting of the General Conference.

3. Each Annual Conference, respectively, shall have a right to send seven elders, members of their Conference, as delegates to the General Conference.

[1] The insertion of the word "States" is evidently a typographical error.

4. Each Annual Conference shall have a right to send one delegate, in addition to the seven, for every ten members belonging to such Conference over and above fifty: so that if there be sixty members, they shall send eight; if seventy, they shall send nine; and so on in proportion.

5. The General Conference shall meet on the first day of May, in the year of our Lord eighteen hundred and twelve; and thenceforward on the first day of May once in four years perpetually, at such place or places as shall be fixed on by the General Conference from time to time.

6. At all times, when the General Conference is met, it shall take two-thirds of the whole number of delegates to form a quorum.

7. One of the original [1] superintendents shall preside in the General Conference; but in case no general superintendent be present, the General Conference shall choose a president *pro tem.*

8. The General Conference shall have full powers to make rules, regulations, and canons for our Church, under the following limitations and restrictions, viz.:

The General Conference shall not revoke, alter, or change our Articles of Religion, nor establish any new standards of doctrine.

They shall not lessen the number of seven delegates from each Annual Conference, nor allow of a greater number from any Annual Conference than is provided in the fourth paragraph of this section.

They shall not change or alter any part or rule of our government, so as to do away episcopacy or to destroy the plan of our itinerant general superintendency.

They shall not revoke or change the general rules of the united societies.

They shall not do away the privileges of our ministers or preachers of trial by a committee, and of an appeal; neither shall they do away the privileges of our members of trial before the society or by a committee [and] of an appeal.

They shall not appropriate the produce of the Book Concern or of the Charter Fund to any purpose other than for the

[1] Evidently a misprint for "general."

benefit of the traveling, superannuated, supernumerary, and worn-out preachers, their wives, widows, and children.

Provided, nevertheless, that upon the joint recommendation of all the Annual Conferences, then a majority of two-thirds of the General Conference succeeding shall suffice to alter any of the above restrictions.

Voted, that the Conference proceed immediately to the subject of the report of the committee.

Monday afternoon: Continued the debate on the report of the Committee of Fourteen.

Moved by Ezekiel Cooper, and seconded by Joshua Wells, to postpone the present question to make room for the consideration of a new resolution, as preparatory to the minds of the brethren to determine on the present subject. Carried.

Moved by Ezekiel Cooper, and seconded by Joshua Wells, the following resolution, viz.:

"*Resolved,* That in the fifth section of Discipline, after the question, 'By whom shall the presiding elders be chosen?' the answer shall be: 'Ans. 1. Each Annual Conference respectively, without debate, shall annually choose, by ballot, its own presiding elders.' "

The purpose of this extraordinary diversion was to modify the then existing "plan of general superintendency" before it should pass beyond the control of the General Conference by constitutional provision. The effect was to precipitate a debate upon the presiding elder question, which was continued until Wednesday morning, when a vote was taken and the resolution was defeated, ayes 52, nays 73.

Wednesday afternoon, May 18: Moved by John McClaskey, and seconded by Daniel Ostrander, that the vote on the first resolution of the Committee of Fourteen be taken by ballot. Carried.

The first resolution of the report of the Committee of Fourteen being put to vote, there were: Yeas, 57; nays, 64. Lost.

The first resolution, thus rejected, was that which

declared that "the General Conference shall be composed of delegates from the Annual Conferences." It was the corner stone of the whole structure, and when the builders rejected it the entire superstructure fell to the ground.

The responsibility for this result appears to lie with the members from the Philadelphia and Baltimore Conferences, effectively aided by Jesse Lee, from Virginia, who, while favoring, in a general way, a delegated General Conference, was willing to defeat the whole scheme rather than yield his own preference as to one of the minor details. It was his idea that the delegates should be selected according to seniority, thus practically creating life tenures of seats in the General Conference. He could have made his fight for this principle when the second paragraph came up for consideration, but seems to have feared that upon its merits he would lose, and so joined with the other forces of opposition to kill the whole measure rather than yield his point.

The effect of this vote seems to have been unexpectedly serious. Many of the disappointed minority, sick at heart, prepared to return at once to their homes, and a number actually went. Hurried consultations were held between the leaders, and the successful party came to see that it had achieved a costly victory. A reaction set in; hope was held out to the minority, and the stampede was arrested. On Monday, May 23, the subject was brought up pending the consideration of a report of the Committee of Review:

Moved by Philip Bruce, and seconded by Thomas Branch, that the report of the Committee of Review lie on the table until we determine when and where the next General Conference shall be held. Carried.

Moved by Leonard Cassel, and seconded by Stephen G. Roszel, that the motion for considering when and where the next General Conference shall be, lie over until it be determined who shall compose the General Conference. Carried.

Moved by Enoch George, and seconded by Stephen G. Roszel, that the General Conference shall be composed of one member for every five members of each Annual Conference. Carried by a very large majority.

Moved by Joshua Soule, and seconded by George Pickering, that each Annual Conference shall have the power of sending their proportionate number of members to the General Conference, either by seniority or choice, as they shall think best.

This shrewd alternative scheme of Soule's is said to have completely disarmed Jesse Lee, who was as much a stickler for "Conference rights" as he was for appointment by seniority.

Monday afternoon, May 23. Brother Joshua Soule's motion of this morning, being put to vote, was carried.

Moved by Stephen G. Roszel, and seconded by George Pickering, that the next General Conference be held on the first of May, 1812. Carried.

Moved by William Thacher, and seconded by Joseph Crawford, that the next General Conference be held in New York. For New York, 56; for Baltimore, 48. Carried.

Moved by Stephen G. Roszel, and seconded by Jesse Lee, that it shall take two-thirds of the representatives of all the Annual Conferences to form a quorum for business in the General Conference. For it, 53; against it, 46. Carried.

Tuesday, May 24: Moved by Jesse Lee, and seconded by William Burke, that the next General Conference[1] shall not change or alter any part or rule of our government, so as to do away episcopacy or to destroy the plan of our itinerant general superintendency. Carried.

Moved by Stephen G. Roszel, and seconded by George Pick-

[1] Evidently meaning the new, or delegated, General Conference, and not the "next session" of the General Conference.

ering, that one of the superintendents preside in the General Conference; but in case of the absence of a superintendent, the Conference shall elect a president *pro tem.* Carried.

Moved by Stephen G. Roszel, and seconded by Nelson Reed, that the General Conference shall have full powers to make rules and regulations for our Church, under the following restrictions—viz.:

1. The General Conference shall not make, alter, or change our Articles of Religion, nor establish any new standards or rules of doctrine, contrary to our present existing and established standards of doctrine. Carried.

2. They shall not allow of more than one representative for every five members of the Annual Conference, nor allow of a less number than one for every seven. Carried.

Moved by Daniel Hitt, and seconded by Samuel Coate, that a committee of three be appointed to modify certain exceptionable expressions in the General Rules. Lost.

3. They shall not revoke or change the "General Rules of the United Societies." Carried.

4. They shall not do away the privileges of our ministers or preachers of trial by a committee, and of an appeal; neither shall they do away the privileges of our members of trial before the society, or by a committee, and of an appeal. Carried.

5. They shall not appropriate the produce of the Book Concern, or of the Charter Fund, to any purpose other than for the benefit of the traveling, supernumerary, superannuated, and worn-out preachers, their wives, widows, and children. Carried.

6. Provided, nevertheless, that upon the joint recommendation of all the Annual Conferences, then a majority of two-thirds of the General Conference succeeding shall suffice to alter any of the above restrictions. Carried.[1]

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[1] It will be observed that down to this point the Conference was simply considering, amending, and adopting in detail the report of the Committee of Fourteen. Only one deviation was made from the order of the report, and that was when Jesse Lee prematurely brought forward the third Restrictive Rule. It will be seen that later Bishop Asbury discovered that the provision in the report for making the new General Conference meet quadrennially had been overlooked, and brought it forward. Some additions to the report were then made, as will appear below.

Tuesday afternoon, May 24: Moved by Daniel Ostrander, and seconded by Ezekiel Cooper, that the general superintendents, with or by the advice of all the Annual Conferences, or, if there be no general superintendent, all the Annual Conferences respectively, shall have power to call a General Conference, if they judge it necessary, at any time. Carried.

Moved by the Chair, that the General Conference shall meet on the first day of May once in four years, perpetually, at such place or places as shall be fixed on by the General Conference from time to time. Carried.

Having accomplished thus much in "determining the regulations concerning the General Conference," other business was taken up; and in the afternoon the report of the Committee of Review was considered. As this report had been laid aside until the matter of the delegated General Conference could be "determined," we infer that the constitution was now considered to be completed. During the very last hour of the session, however, Thursday, May 26, 1808, just before the "old General Conference" adjourned forever, it was

Moved by Joseph Totten, and seconded by Stephen G. Roszel, that no preacher shall be sent as a representative to the General Conference until he has traveled four full calendar years from the time that he was received on trial by an Annual Conference, and is in full connexion at the time of holding the Conference. Carried.

Thus was completed the task of forming a constitution and providing a settled form of government for the Church.

After Conference adjourned, it devolved upon the editor of the Discipline to reduce to form the somewhat disjointed work of that body. Who was this editor or compiler does not appear. For a number of years Bishops Coke and Asbury performed that office;

and Asbury, or he and McKendree, may have done so this year. Whoever did the work, did it well. Here it is complete, as it appeared in the Discipline of 1808:

SECTION 3, CHAPTER I.

Of the General Conference.

Ques. 2. Who shall compose the General Conference, and what are the regulations and powers belonging to it?

Ans. 1. The General Conference shall be composed of one member for every five members of each Annual Conference, to be appointed either by seniority or choice, at the discretion of such Annual Conference: yet so that such representatives shall have traveled at least four full calendar years from the time that they were received on trial by an Annual Conference, and are in full connection at the time of holding the Conference.

2. The General Conference shall meet on the first day of May, in the year of our Lord 1812, in the city of New York, and thenceforward on the first day of May once in four years perpetually, in such place or places as shall be fixed on by the General Conference from time to time; but the General Superintendents, with or by the advice of all the Annual Conferences, or, if there be no General Superintendent, all the Annual Conferences respectively, shall have power to call a General Conference, if they judge it necessary, at any time.

3. At all times when the General Conference is met, it shall take two-thirds of the representatives of all the Annual Conferences to make a quorum for transacting business.

4. One of the General Superintendents shall preside in the General Conference; but in case no General Superintendent be present, the General Conference shall choose a President *pro tempore.*

5. The General Conference shall have full powers to make rules and regulations for our Church, under the following limitations and restrictions—viz.:

(1) The General Conference shall not revoke, alter, or change our Articles of Religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine.

(2) They shall not allow of more than one representative for every five members of the Annual Conference, nor allow of a less number than one for every seven.

(3) They shall not change or alter any part or rule of our government, so as to do away Episcopacy or destroy the plan of our itinerant general superintendency.

(4) They shall not revoke or change the General Rules of the United Societies.

(5) They shall not do away the privileges of our ministers or preachers of trial by a committee, and of an appeal; neither shall they do away the privileges of our members of trial before the society or by a committee, and of an appeal.

(6) They shall not appropriate the produce of the Book Concern, or of the Charter Fund, to any purpose other than for the benefit of the traveling, supernumerary, superannuated and worn-out preachers, their wives, widows, and children. Provided, nevertheless, that upon the joint recommendation of all the Annual Conferences, then a majority of two-thirds of the General Conference succeeding shall suffice to alter any of the above restrictions.

A careful comparison of this finished document with the report of the Committee of Fourteen, and with the entries in the journal recording the passage of the various parts, discloses the following facts:

1. The three resolutions concerning the number, qualifications, and manner of choosing delegates are, by the editor, skillfully blended in the first answer, and form a complete substitute for the first four paragraphs of the report.

2. The second answer is also a composite one, made up partly of matter that was in the report and partly of amendments or additions made on the floor of the Conference.

3. The rule for safeguarding the general superintendency was not, as it appears in the minutes, brought

forward as one of the Restrictive Rules, but is placed among them in the Discipline.

4. Whenever the resolutions as recorded in the journal were in substance the same as corresponding parts of the committee's report, but differed verbally, the editor of the Discipline invariably followed the words of the report; but where they differed in substance he followed as nearly as practicable the wording of the motions as set out in the journal.

Now, while the journal of the General Conference never mentions by name the report of the Committee of Fourteen after recording the defeat of its first proposition, the foregoing observations demonstrate, if demonstration is necessary, that as a matter of fact that document was really before the body from beginning to end; that it was amended by substitutions and additions, and thus substantially, though not in form, adopted as a whole. The editor of the Discipline so understood it, and his work, plainly declaring his understanding, was received by his fellow-members of that body without protest or criticism, and has stood unchallenged for a century. Can it be doubted that the General Conference amended and adopted the report of the Committee of Fourteen?

From time to time several writers and speakers of eminence have referred to the Restrictive Rules as the constitution, thereby apparently denying the character of fundamental law to the first four answers of the ordinance of 1808.[1] The author can find no sub-

[1] Bishop McKendree has several times done this, but evidently without any purpose to exclude the remainder of the document, for in a carefully written paper on the constitution he says, "The constitution says one of the General Superin-

stantial foundation for this view. It appears to him to be incontrovertible that the instrument adopted was one complete and consistent whole; and that without the first four answers, or at least part of them, the Restrictive Rules would have been utterly ineffective and meaningless. The report of the committee itself is described in the record as relating to "regulating and perpetuating General Conferences," while the preamble of the report recites that the object in view was to "preserve sacred and inviolable the doctrines, form of government, and General Rules," and to "preserve, strengthen, and perpetuate the union of the connexion." Who will say that the Restrictive Rules furnish the means to such ends? How much of our "form of government" is protected by them besides the episcopacy? What plan do they embody for "perpetuating the union of the connexion"? Every part of the report was framed to carry out the purposes set forth in the preamble. It was designed to "*perpetuate* the union" and the episcopal form of government by means of a delegated legislative body, and not merely to hold things in *statu quo* until the next or a subsequent General Conference could devise a better or a different plan, in whole or in part. To have undertaken to perpetuate a form of government without in any manner defining its essential features would have been idle, and the Fathers made no such mistake. They described accurately the supreme legislative body which was to be charged with the weighty business of mak-

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tendents shall preside in the General Conference," thus applying the name to a part of the instrument not embraced in the Restrictive Rules. See Paine's "Life of McKendree," Vol. II., p. 370.

ing the laws, and then proceeded to draw a line of delimitation within which those laws must be confined. We search the Restrictive Rules in vain to find the proposed form of government. There are allusions to it, but they are utterly unintelligible apart from the rest of the instrument. But in the first four answers there is a careful description of the governing Conference, its presidency, meetings, etc.

Color of support has been given to the idea that only the Restrictive Rules are of the nature of fundamental law because provision is made in the instrument for amending them, while none is made for altering the first four answers. The effect of this, it is argued, is to place those answers on a parity with other provisions of the Discipline as it then existed, "rules and regulations" alterable at the pleasure of the General Conference. To this it might be retorted that the omission of a rule for altering them demonstrates that they were to be unalterable, thus placing them in the same category with the first Restrictive Rule under the amendment of 1832.[1] The retort would be as far from truth as is the idea refuted by it, but no further. Curiously enough, it has actually been seriously argued in opposition to amendments proposed by the General Conference of the Methodist Episcopal Church looking to the admission of laymen and women to the General Conference of that Church, that in the absence of provision for its amendment that part of the Constitution cannot be changed. The ancient Medes and Persians knew how to make such law as that, but they are now all dead.

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[1] But see Chapter IX.

If the General Conference, in the plenitude of its powers, was authorized to change at pleasure the first four answers, it could have made in their stead laws providing: (1) That the General Conference should be composed of preachers or laymen, members of the Church or aliens, women or children, provided only that there be "not more than one for every five members of the Annual Conference, nor less than one for every seven"; (2) that the delegates should be members for life; (3) that they should be appointed by the bishops, or otherwise, at the pleasure of the Conferences; (4) that the General Conference should meet every one year or every ten years; (5) that one bishop or one Annual Conference might call an extra session of it; (6) that the quorum might be even less than a majority, or more than two-thirds; (7) that the bishops should not preside nor come in one hundred miles of it while in session. This list could be extended indefinitely. The organizing convention of 1808 had no idea of leaving things at such loose ends. It settled all those matters in advance, that it might thereby "perpetuate our form of government." By every intendment of language and deduction of logic, the whole of this instrument was imposed upon the delegated General Conference as the fundamental law of its being, and unalterable by any exclusive act of its own.

It is not denied that the General Conferences of both Episcopal Methodisms in the United States have now and then lost sight of the constitutional character of these first four answers and mutilated them; but such acts, as elsewhere shown,[1] have been the results of inadvertence rather than of deliberate purpose. In 1892,

[1] See Chapter VII.

after full debate, the General Conference of the Methodist Episcopal Church repudiated all such tinkerings, and thus recorded its opinion that the entire instrument was fundamental law:

> The section on the General Conference in the Discipline of 1808, as adopted by the General Conference of 1808, has the nature and force of a constitution. That section, together with such modifications as have been adopted since that time in accordance with the provisions for amendment in that section, is the present constitution.

The section of the Discipline above referred to embraces the entire document as reproduced *supra.*

The constitution was rendered necessary by the change from a mass convention of the preachers to a delegated Conference. All the provisions of the instrument referred immediately to the General Conference, and the legislation was undertaken specifically for the purpose of "regulating and perpetuating General Conferences." Consequently, the instrument adopted in 1808, with its various amendments, has usually been called the constitution of the General Conference, rather than the constitution of the Church.

But is it not the constitution of the Church?

It is the fundamental law which guarantees against legislative tinkering the doctrines and Articles of Religion *of the Church;* it provides a supreme legislative body for *the Church;* it definitely perpetuates the episcopacy in *the Church;* it recognizes and perpetuates Annual Conferences composed of preachers and (since 1866) laymen *in the Church;* it recognizes and perpetuates, in the fifth Restrictive Rule, a judicial system for *the Church.* Thus it will be seen that it embraces provisions concerning the legislative, the executive, and

the judicial departments of the Church. Is it not, then, the constitution of the Church, and not merely the charter of its supreme legislature? It certainly was designed to be, and is, the latter, but the fundamental nature of its contents makes it that and more.

CHAPTER III.

Amendments of the Constitution by the Undivided Church, 1808-1845.

Since its adoption, in 1808, the constitution has been amended five times by concurrent votes of the General and Annual Conferences, and each time in pursuance of the method in the *proviso* to the Restrictive Rules. The first was an amendment of that *proviso* itself; the second changed the second Restrictive Rule; the third provided for lay representation in the Annual and General Conferences of the Church, South; the fourth conferred the veto power upon its bishops; and the fifth changed and reënacted the provisions relating to representation in the General Conference, including the ratio in the second Restrictive Rule. It will be observed that all of these except the third involved changes of the Restrictive Rules, and that the first two were adopted prior to the division of the Church, in 1845.

The first amendment was adopted in 1832. The constitution of 1808 fixed the ratio of representation in the delegated General Conference at one delegate for every five traveling preachers, but in the second Restrictive Rule authorized the General Conference to change it at pleasure to one for six or seven. In the General Conference of 1812 an effort was made to change the ratio to one for every six, but it failed. In 1816 it was made one for every seven, thus reaching the constitutional limit. In 1824 a resolution was introduced into the General Conference recommending

to the Annual Conferences that they authorize a change of the second Restrictive Rule so as to allow not more than one delegate for every fourteen members of an Annual Conference, nor less than one for every twenty-one. After being debated, the resolution was withdrawn. But the movement was not allowed to die there. During the succeeding quadrennium a proposition of that character was introduced into all the Annual Conferences, and passed them all except the Philadelphia Conference,[1] which negatived and thus defeated it. This disappointing act of a single Conference emphasized the blunder that had been made in requiring the concurrence of *all* the Annual Conferences to amend a Restrictive Rule, and in the next General Conference, that of 1828, Wilbur Fisk introduced the following resolution. The reader will remember that under the constitution of 1808 the initiative in altering a Restrictive Rule lay with the Annual Conferences, the next General Conference having power to approve or reject their proposals. Dr. Fisk's resolution, therefore, was purely advisory:

Resolved, That this General Conference respectfully suggest to the several Annual Conferences the propriety of recommending to the next General Conference so to alter and amend the rules of our Discipline, by which the General Conference is restricted and limited in its legislative powers, commonly called the Restrictive Rules, number six, as to read thus: "*Provided,* nevertheless, that upon the joint recommendation of three-fourths of all of the Annual Conferences, then a majority of two-thirds of the General Conference succeeding shall suffice to alter any of the above restrictions; or whenever such alterations shall have been first recommended by two-thirds of the General Conference, then, so soon as three-

[1] Bangs's "History of Methodism," Vol. IV., p. 103.

fourths of said Annual Conferences shall have concurred with such recommendations, such alteration or alterations shall take effect."

After considerable debate this resolution was referred to a select committee for examination. On May 22 they brought in their report, and it was adopted without alteration. A careful comparison of this report with the original resolution will disclose several changes for the better—a fine illustration, as suggested by Dr. Tigert, of the good that comes from full and free discussion of a measure by a truly deliberative assembly:

Resolved, That this General Conference respectfully suggest to the several Annual Conferences the propriety of recommending to the next General Conference so to alter and amend the rules of our Discipline, by which the General Conference is restricted in its powers to make rules and regulations for the Church, commonly called the Restrictive Rules, as to make the proviso at the close of said Restrictive Rules, No. Six, read thus:

"*Provided,* nevertheless, that upon the concurrent recommendation of three-fourths of all the members of the several Annual Conferences who shall be present and vote on such recommendation, then a majority of two-thirds of the General Conference succeeding shall suffice to alter any of such regulations excepting the first article.

"And, also, whenever such alteration or alterations shall have first been recommended by two-thirds of the General Conference, so soon as three-fourths of the members of the Annual Conferences shall have concurred, as aforesaid, with such recommendation, such alteration or alterations shall take effect."

Here will be observed not only several improvements in the phraseology, when compared with the original paper, but two radical changes in substance. The first

is, that the first Restrictive Rule is excepted from alteration by this process; and the second is, that in order for an amendment to prevail it must receive the votes of three-fourths of the *members* of all the Annual Conferences, rather than majorities in three-fourths of all the Annual Conferences. The man, not the Conference, was to become the unit.

The recommendation of the General Conference was brought before the several Annual Conferences during the succeeding quadrennium, and the General Conference of 1832 canvassed the vote through its Committee on the Itinerancy. This committee, on May 7, reported:

On examination of the journals of all the Annual Conferences, respecting the alteration of the restrictive regulations, as recommended by the General Conference of 1828, we find that the subject was taken up by the New York Annual Conference, and concurred in by seventy-two votes against two—once resolutions were passed inviting the several Annual Conferences to concur in the same—which resolutions have passed all the Annual Conferences in full and due form, with the exception of the Illinois, where we find some want in the formality, not sufficient, however, in the judgment of your committee, to alter or set aside the principle. And we have the assurance of the delegates from that Conference that the informality rose from the want of information, and not with any intention to embarrass the true design of the said resolution. Your committee therefore offer the following resolution to the Conference—viz.:

Resolved, By the delegates of the Annual Conferences in General Conference assembled, that the proviso at the close of the article numbered six of the Restrictive Rules be altered so as to read: "*Provided,* nevertheless, that upon the concurrent recommendation of three-fourths of all the members of the several Annual Conferences who shall be present and vote on such a recommendation, then a majority of two-thirds of the General Conference succeeding shall suffice to alter any of

the above restrictions, excepting the first article; and also, whenever such alteration or alterations shall have been first recommended by two-thirds of the General Conference, so soon as three-fourths of the members of all the Annual Conferences shall have concurred as aforesaid, such alteration or alterations shall take effect."

This report raised a grave issue. The committee finds "some want in the formality" in the case of the Illinois Conference. It is most unfortunate that the committee did not state the case fully. When the report came up for final action, the following paper was presented, signed by all the delegates from the Illinois Conference:

We, the delegates from the Illinois Annual Conference, do hereby certify that we do cordially concur in the above assurance.

Thereupon the report was adopted unanimously, and the new proviso was thenceforth recognized as part of the constitution. There is here no allegation from any source that the Illinois Conference voted upon the question. The Journal of the Conference, still extant, does not show that the vote was taken.[1] There seems no escape from the inference that the vote was not taken. In what manner, then, did the Illinois Conference express its purpose to join in the "recommendation" to the General Conference which was essential to the validity of this amendment? History answers not. The General Conference, before it could constitutionally vote upon the change itself, must needs first decide whether the amendment had carried in *all* the Annual Conferences. The only difficulty was in the Illinois

[1] Neely, "Governing Conference of Methodism," p. 403.

case. After hearing the evidence, it decided unanimously that the Illinois Conference had "recommended" the amendment to the General Conference for its final adoption. Out of this action arises an extremely delicate question: Was the General Conference acting in a judicial capacity in arriving at this decision; and if so, does it imply jurisdiction in that body to judicially determine what is and what is not the constitution?

The ponderous and difficult old rule for making amendments being by this action removed out of the way, the Conference at once addressed itself to bringing about an alteration of the second Restrictive Rule so as to reduce the number of delegates in the General Conference. The Committee on Itinerancy offered the following as a substitute for the original rule: "They shall not allow of more than one representative for every fourteen members of the Annual Conference, nor allow of a less number than one for every thirty." This was recommitted "with instructions which were given by some of the preachers verbally to consider and report." A report was brought in the next day, and for ten days it was debated more or less at every session, the bone of contention being the provision for fractional representation, which, it will be observed, was not in the original report. After amendment, the proposed new second Restrictive Rule was recommended unanimously, as follows:[1]

> They shall not allow of more than one representative for every fourteen members of the Annual Conference, nor allow of a less number than one for every thirty; provided, nevertheless, that when there shall be in any Annual Conference a fraction of two-thirds of the number which shall be fixed for

[1] Journal of General Conference, 1832, p. 402.

the ratio of representation, such Annual Conference shall be entitled to an additional delegate for such fraction; and provided, also, that no Conference shall be deprived of the privilege of two delegates.

The bishops were directed to present this amendment to the Annual Conferences at their next succeeding sessions, canvass the votes, and declare and publish the result. This was accordingly done, and the measure was duly adopted. The same General Conference provided, contingent upon the adoption of the new rule by the Annual Conferences, that there should thereafter be one representative in the General Conference for every fourteen preachers.[1] At the next General Conference, 1836, the ratio was reduced to one for every twenty-one.[2] This held until the division of the Church, in 1844-45. The Louisville Convention, which called the General Conference of 1846, the first of the Southern Church, fixed the ratio at one for every fourteen, at which it remained until 1858, when "seventeen" was substituted in place of "fourteen."[3] So it continued until the introduction of lay representation, provided for in 1866, and consummated in 1870.

The two foregoing amendments, one changing the requirements for amending the Restrictive Rules, and the other changing the second Restrictive Rule, are the only changes made in the constitution prior to 1866, and both, it will be observed, were made by "the old Church," which ceased to exist in 1845.

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[1] General Conference Journal, p. 402.

[2] General Conference Journal, p. 496.

[3] Journal of the General Conference, M. E. C., S., 1858, pp. 423, 567.

CHAPTER IV.

Amendments—Lay Representation, 1866.

The master spirit who led the party of progress in the General Conference of 1866 was Holland N. McTyeire. With his own hand he has written, in a few brief, breathing sentences, the history of the most important act of that epoch-making conclave:

The great measure of 1866 was lay delegation. Its prostrate, almost collapsed, condition required all available help the Church could command. A sentiment in favor of lay cooperation had been growing quietly for years. Once, only two questions were asked in Annual Conference: How many are in Society? Where are the preachers stationed this year? There was no business for laymen then. The schedule grew to embrace a wider range of topics and a larger care. By and by education, Sunday schools, and Sunday observance, religious publications and their dissemination, orphanage and widowhood, temperance, and Church extension, began to occupy much time in Annual and General Conferences, and the need of laymen was felt.

The original motion was in the form of two resolutions, simple and general [Dr. McTyeire himself offered them], not embarrassed by particulars. The first was: "*Resolved,* That it is the sense of this General Conference that lay representation be introduced into the Annual and the General Conferences." This was adopted by ninety-six yeas, forty-nine nays.[1] The principle once admitted, even by a numerical majority, everything was gained. Men who were doubtful, or so indifferent to the new measure as to vote on the old side, saw that the Church could not well stand in that attitude on such a subject—excluding laymen on a minority expression of the

[1] The Journal, page 63, says 95 yeas, 50 nays.

ministry; and enough of them consented to waive their preferences on the final record to make a two-thirds majority.

A special committee [of which Dr. McTyeire was chairman] called for by the second resolution, took the matter in hand, with instructions to arrange the details of a plan; which was adopted, ninety-seven yeas, forty-one nays. The measure, having passed on to the Annual Conferences, obtained the requisite three-fourths vote, and laymen took their seats in the General Conference of 1870.

Considering the Annual Conferences as mainly an executive body, the presence of only four lay delegates from each district is provided for there; but in the General Conference, the lawmaking body, the number of lay delegates is equal to the clerical. So ripe was public opinion, so propitious the times, and so well-digested the scheme, that this great change was introduced without heat or partisanship. Unstintedly, voluntarily, on their own motion, the ministry, who had held this power from the beginning, divided it equally with lay brethren. Their appearance in the chief council of the Church, and their influence, justified their introduction, even to those who had feared; a new power was developed, a new interest awakened, a new progress begun.[1]

The report embodying the scheme, which was adopted in full without amendment, was as follows:

REPORT OF THE SPECIAL COMMITTEE ON LAY REPRESENTATION.

The committee charged with the duty of bringing in a plan for effecting lay representation in the Annual and General Conferences submits the following:

In the Annual Conferences.—After the word *service* in Answer 1, Question 1, Section 3, Chapter II., page 48 of the Discipline,[2] insert: "and four lay representatives, one of whom

[1] McTyeire's "History of Methodism," p. 668.

[2] The question and answer here referred to were as follows:

"*Ques.* 1. Who shall compose the Annual Conference?

"*Ans.* 1. All the traveling preachers in full connection who are able to do effective service; all supernumerary preachers—that is to say, those who are so disabled by affliction as to be unable to preach constantly, but are willing to do any work in the ministry which the bishop may direct and they may be able to perform; and all the superannuated preachers—that is to say, those who are worn out in the itinerant service,".

may be a local preacher, from each presiding elder's district, to be chosen annually by the district stewards, or in such other manner as the Annual Conference may direct, who shall participate in all the business of the Conference, except such as involves ministerial character and relations; provided that no one shall be a representative who is not twenty-five years of age, and who has not been for six years, next preceding his election, a member of the Church."

In the General Conference.—Substitute for Answer 1 to Question 1, Section 2, Chapter II., pp. 42, 43 of the Discipline: "The General Conference shall be composed of one clerical member for every twenty-eight members of each Annual Conference, and an equal number of lay members, one-fourth of whom may be local preachers, to be appointed as follows: The clerical representatives shall be elected by the clerical members of the Annual Conference; provided that such representatives shall have traveled at least four calendar years from the time that they were received on trial, and are in full connection at the time of holding the Conference. The lay representatives shall be elected by the lay members of the Annual Conference; provided that such representatives be twenty-five years of age, and shall have been members of the Church for at least six years at the time of holding the Conference. No Conference shall be denied the privilege of two lay delegates. 2. The ministers and laymen shall deliberate in one body; but upon a call of one-fifth of the members of the Conference, the lay and clerical members shall vote separately, and no measure shall be passed without the concurrence of a majority of both classes of representatives."

The following changes in the Discipline are also recommended:

Number the 2d paragraph as third; the 3d paragraph as 4th. On pages 43, 44 of the Discipline, fixing a quorum for General Conference, substitute "a majority" for "two-thirds."

Resolved, That the proposition for the introduction of lay representation into the Annual and General Conferences be submitted to the several Annual Conferences; and upon the approval of three-fourths of all the members of all the Annual Conferences present and voting, the plan herewith submitted

shall become the law of the Church; provided the same shall have passed this Conference by a two-thirds vote.

H. N. McTyeire, *Chairman.*

The action of the General Conference was peculiar in one respect. The vote was taken by ayes and noes, and stood, as recorded in the Journal, ayes, 89; noes, 46. This was less than a two-thirds majority. Without announcing the result of the vote, Bishop Wightman, who occupied the chair, resigned it to Bishop Doggett, and other business was taken up, which occupied the remainder of the morning session. In the afternoon (Bishop McTyeire in the chair), after the minutes of the morning session had been read and approved, three members who had not voted in the morning had their names recorded for the measure, and five who had voted against it changed their votes to the affirmative. "The vote," says the Journal, "now stands ayes, 97; noes, 41." The Journal does not show that the result was ever announced from the chair. There was probably an agreement to hold the vote in suspense until the absent members could record their votes, but neither the Journal nor the *Daily Advocate* mentions it.[1] On the eve of the vote the bishops, in response to a request to define what constitutes "two-thirds of the General Conference," replied: "Two-thirds of the General Conference are two-thirds of a legal quorum, or more, of the members who may be present and voting on any question."[2] As the three members who had their votes recorded in the afternoon were not "present and voting" in the morning,

[1] General Conference Journal, 1866, pp. 109, 110.

[2] General Conference Journal, 1866, p. 106.

and as those who voted in the morning were not "present and voting" on this proposition in the afternoon, can it be said that at any time two-thirds of the members present voted affirmatively on this question? Universal acceptance of the result, however, has cured the irregularity if it existed, though for reasons given in Chapter IX. it will appear that the author regards the action of the General Conference as without technical value in determining the result, and therefore immaterial.

A more serious question arises concerning the action affecting the quorum in the General Conference. The resolution with which the report of the Committee on Lay Representation concludes directs that "the proposition for the introduction of lay representation" be submitted to the Annual Conferences. The change of quorum is not embraced in that proposition. Was it submitted to the Annual Conferences with the other measure? Bishop McTyeire, in the "Manual of the Discipline," says:

> In 1866, on the introduction of lay representation, it was judged proper, for obvious reasons, to change the quorum from "two-thirds" to "a majority"; and this alteration was submitted in the same report with the plan of lay representation, to the Annual Conferences, and received a three-fourths vote, after having been recommended by a two-thirds vote of the General Conference.[1]

The text of the report as adopted makes it by no means clear that the change of quorum was "recommended" by the General Conference. If, however, it was adopted by the latter, as stated by Bishop Mc-

[1] Manual, 1883, p. 14.

Tyeire, by even a bare majority, its validity as part of the constitution cannot be successfully assailed.[1]

It is most unfortunate that in making constitutional provision for lay membership in the Annual Conferences the amendment was tacked on to and made part of a paragraph of the Discipline, which was itself no part of the constitution, and consequently subject at any time to alteration. Indeed, it has been reduced from the form it then bore,[2] so that all that remains of it now is: "All the traveling preachers in connection with it."[3]

It seems anomalous that a system of lay representation should have been devised which takes no account whatever of the number of laymen to be represented. The infelicity of the plan becomes the more apparent when it is pointed out that there is an Annual Conference whose twenty-five thousand laymen send four delegates to the General Conference of 1902, and another whose sixty-six thousand laymen send only four; and that there is one whose seven thousand laymen send two delegates, while the thirty-seven thousand of another Conference send only two delegates. In order to understand how this came to pass in a country so thoroughly imbued with the idea of equal popular representation as is America, it is necessary to recur to the early history of our Church government.

As was shown elsewhere, under the order of things prevailing prior to the adoption of the constitution of 1808, all the traveling preachers of four years' standing were members of the General Conference. By

[1] For reasons which will be developed *infra*, Chapter IX.

[2] See Note, p. 51.

[3] Discipline, 1898, Paragraph 44.

voting that instrument these waived their right to sit as members, and thereafter sent chosen representatives to occupy the places vacated by themselves. Thus it came to pass that the delegates in the General Conference were representatives of the preachers, and not of the whole Church; and that representation was apportioned among the Annual Conferences according to the number of preachers, and not to the number of societies, charges, or members. Such an apportionment was strictly in keeping with the genius and traditions of our Church government up to that time. In 1866, however, there came a change which amounted almost to a revolution. Lay delegates elected by laymen, and equal in number to the clerical delegates, were admitted to the General Conference on terms of perfect equality. It might reasonably have been expected that when this change was made the principle of *pro rata* representation according to the numbers of laymen would be acknowledged. That it was not may be attributed to either of three facts: (1) It may not have been thought of; (2) there may have been a fear that as the clerical basis had been long established, was familiar to the Church, and was in the main satisfactory, an effort to change it might arouse opposition in Conferences whose representation would be affected unfavorably by the change to a different rule, and so endanger the passage of the new measure; (3) the absolute, divine right of the preachers to rule the Church of God was stoutly asserted in debate, and a proposition to make the number of lay members in the bounds of an Annual Conference the basis of its representation in the General Conference might have appeared an even greater departure from

that assumed principle, and consequently have awakened greater opposition. In order to secure the safe passage of the measure through the General and Annual Conferences, the committee which drafted the new provisions doubtless exerted themselves to make them acceptable to as many electors as possible by avoiding every innovation not essential to the main feature of the scheme—to wit, lay representation.

A double basis, ministerial delegates according to the number of preachers, lay delegates according to the number of lay members, was impracticable because of the difficulty which would have been encountered in preserving equal clerical and lay representation from each Annual Conference, which was itself one of the important features of the new plan.

Has not the time arrived when a readjustment should be made which would recognize that the laity constitute a part of the Church as essential as the clergy and as fully entitled to representation upon the basis of numerical strength? A fair rule would seem to be to give each Annual Conference representation according to the aggregate number of traveling and local preachers and lay members within its bounds.

In their address to the General Conference of 1870, the first in which lay delegates took their seats, the bishops made this felicitous reference to the purpose and effect of the radical change wrought in our form of government by the amendments of 1866:

> It has been truly said that "Methodists, all over the world, are one in doctrine"; so that, however widely scattered and differing in other respects, they present the peculiarity of agreeing cordially in the great doctrines of Christianity. And as the members of our communion are a unit in faith, so also

there is scarcely any disagreement among them as to our Church polity. Their prevalent desire is that both be preserved—the former intact; the latter, if altered at all, to be modified so far only as to make it more effective in accomplishing the original purposes of Methodism. This is seen in the fact that we have quietly passed what is justly regarded in all forms of government a great crisis, in the adoption of a new element in our system. We allude to the introduction of lay representation into the Annual and General Conferences. This important change in our economy was not a peace offering, rendered necessary for the preservation of the unity and peace of the Church from the attacks of a dissatisfied and refractory membership, but was proposed and effected by the nearly unanimous voice of the ministry,[1] and the acquiescence of the laity—both believing that the time had fully come when it would enhance the effectiveness of the Church and the glory of Christ.

[1] The vote in the Annual Conferences stood: for the amendments, 1,199; against the amendments, 371. (*Manual of Discipline*, 1883, p. 14.)

CHAPTER V.

Amendments — The Veto, 1870, and Representation, 1878.

A legislature composed of one house only, as is the General Conference, is much more liable to adopt hasty, improvident, and unconstitutional measures than is one composed of two houses. The need of a check, especially to guard against unconstitutional acts, was early felt, and was first sharply accentuated in 1820, when the General Conference adopted a rule which provided for the election of presiding elders by the Annual Conferences. This rule Bishop McKendree pronounced a violation of the third Restrictive Rule, and in a written protest which he presented to the General Conference he flatly refused to submit to or enforce it in the Annual Conference. Joshua Soule, who had just been elected bishop, for the same reason declined to accept the office. Notwithstanding these protests, the General Conference refused to rescind the rule, but in a spirit of compromise suspended its operation until the next General Conference.[1]

This painful clash between the General Conference and the senior general superintendent brought both parties to a realizing sense of the fact that no adequate provision then existed for promptly disposing of such a question. That there was a tribunal having ample jurisdiction to decide the issue I shall endeavor to show

[1]General Conference Journal, 1820, pp. 235, 237.

in a later chapter,[1] but in the same connection it will appear that it was inadequate to meet an emergency like that then present. Hoping to provide against such an embarrassment in future, the General Conference, on the last day of its session, adopted the following, apparently without opposition:

> Whereas a difference has arisen in the General Conference about the constitutionality of a certain resolution passed concerning the appointment of presiding elders; and whereas there does not appear to be any proper tribunal to judge of and determine such a question; and whereas it appears important to us that some course should be taken to determine this business; therefore,
>
> *Resolved,* That we will advise, and hereby do advise, the several Annual Conferences to pass such resolutions as will enable the next General Conference so to alter the constitution that whenever a resolution or motion which goes to alter any part of our Discipline is passed by the General Conference it shall be examined by the superintendent or superintendents; and if they, or a majority of them, shall judge it unconstitutional, they shall, within three days after its passage, return it to the Conference with their objections to it in writing. And whenever a resolution is so returned, the Conference shall reconsider it; and if it pass by a majority of two-thirds, it shall be constitutional and pass into a law, notwithstanding the objections of the superintendents; and if it be not returned within three days, it shall be considered as not objected to and become a law.[2]

The proposed amendment was evidently roughly modeled after a somewhat similar provision in the constitution of the United States; but there is no indication in the language used that the draughtsman had that instrument before him, or that he had a proper

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[1] See Chapter VIII., "The Judicial System."

[2] General Conference Journal, 1820, p. 238.

conception of the true nature and purpose of the veto. The proposed measure, in the first place, did not authorize the veto of all unconstitutional measures, but only of such as might go to "alter any part of our Discipline." Very many measures are passed by every General Conference, and have been from the beginning, that do not alter the Discipline, and that are not made part of it. There is nothing in the constitution which prescribes what shall be incorporated in the Discipline, and, except in the matter of altering what was already there, the General Conference, had the amendment prevailed, would have had as free rein as ever.

Again, the proposed measure went far beyond the veto provision in any political constitution, in providing that "whenever a resolution is so returned [disapproved by the bishops] the Conference shall reconsider it; and if it pass by a majority of two-thirds, it *shall be constitutional* and pass into law." An act passed by the Congress of the United States, or by the Legislature of a State, over the veto of the executive, stands upon the statute book exactly as every other law, and its constitutionality is as open to adjudication by the courts as is that of any other law. This extraordinary provision—that a two-thirds vote will make it constitutional—in a measure designed to protect the constitution would have really had the effect to place that instrument absolutely at the mercy of two-thirds of the General Conference. Fortunately, the Annual Conferences did not commit themselves to so dangerous a measure, and it failed.

At the next General Conference a much more carefully considered measure was brought forward and adopted by a very small majority. It was introduced

by Lovick Pierce and William Winans, and had previously received the approval of Bishops McKendree, George, and Roberts.[1] It was as follows:

Resolved, That it be and is hereby recommended to the several Annual Conferences to adopt the following article as a provision to be annexed to the sixth article of the "limitations and restrictions" adopted by the General Conference of 1808—viz.:

Provided, also, that whenever the delegated General Conference shall pass any rule or rules which, in the judgment of the bishops, or a majority of them, are contrary to or an infringement upon the above "limitations and restrictions," or any one of them, such rule or rules being returned to the Conference within three days after their passage, together with the objections of the bishops to them, in writing, the Conference shall reconsider such rule or rules; and if, upon reconsideration, they shall pass by a majority of two-thirds of the members present, they shall be considered as rules, and go into immediate effect; but in case a less majority shall differ from the opinion of the bishops, and they continue to sustain their objections, the rule or rules objected to shall be laid before the Annual Conferences, in which case the decision of a majority of all the members of the Annual Conferences present when the vote shall be taken shall be final.[2]

It will be observed that the objectionable features of the proposed amendment of 1820 are carefully avoided in drawing this paper. Presumably those features had had something to do with the defeat of that proposal.

This measure also failed to meet the approval of all the Annual Conferences, and came to naught. Whether disapproval was based upon opposition to the principle of investing the bishops with the powers proposed, or to the clumsy and ill-conceived device of erecting

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[1] Paine's "Life of McKendree," Vol. II., pp. 35-38.

[2] General Conference Journal, 1824, pp. 267, 277.

the entire traveling connection into a huge court of appeals to decide a purely legal question, does not appear. It is altogether probable, however, that it was due to the factional spirit engendered by the bitter controversy then pending over the presiding elder question.

In the absence of a veto power lodged in the episcopacy or elsewhere, and of a court of competent jurisdiction *promptly* to decide such questions, Bishop McKendree determined to carry around to the Annual Conferences the "suspended resolutions" of 1820 on the election of presiding elders, in order to have the body of traveling preachers pass upon their constitutionality. In his journal [1] the Bishop cited the following precedent for this appeal to the primary constituents:

> The bishops formed the Genessee Conference in 1809. In the Virginia Conference there was an objection to this act, being, as it was supposed, unconstitutional. The bishops submitted the question to the Annual Conferences. They acted upon it as a proper subject for their decision, and confirmed the act of the bishops. By this act, the bishops and the Annual Conferences tacitly declared the Annual Conferences to be the proper judges of constitutional questions; and the Senior Bishop is fully persuaded that, conformably to the genius of our government, all such cases as cannot be otherwise adjusted ought to be submitted to their decision until otherwise provided for by the same authority on which the present [*i. e.*, the delegated] General Conference depends for its existence.

What was there in "the genius of our government" that made it proper and lawful to resort to the traveling preachers assembled in Annual Conference to judicially decide a question of constitutional law? The answer is found in the sovereignty of the preachers.

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[1] Paine's "Life of McKendree," Vol. I., p. 426.

Anciently absolute monarchs exercised in their own persons legislative, judicial, and executive powers. One was as inherent as the other, and all equally pertained to the idea of sovereignty. When the burden of hearing causes became too great, the king appointed judges *to act in his place*. To this day in republican England all the processes of the courts of justice run in the name of the king, as though he were still the judge. Judicial power belongs to the sovereign until he chooses to delegate it to others. Bishop McKendree assumed that the sovereign traveling preachers had not delegated to any person or tribunal authority to adjudicate cases involving constitutional questions, and that consequently that power still inhered in and could be "properly" exercised by them alone. In this emergency it was, therefore, strictly in keeping with the "genius of our government" to invoke their intervention. That the premise was correct, however, is not admitted by the writer.[1]

The inconvenience and tremendous practical difficulty of "trying a case" before a court composed of hundreds and thousands of judges scattered over so many States and increasing in number every year were apparent enough; is it not amazing, then, that with the admirable judicial systems of the several States and of the United States before their eyes the Fathers sought to put into the constitution this lumbering piece of machinery which had in the first instance been resorted to only because, through lack of foresight, a better had not been previously devised?

As already stated, the amendment sent down in 1824 failed to receive the necessary votes in the Annual Con-

[1] See Chapter VIII., "The Judicial System."

ferences. After such signal failures, the subject appears to have been dropped until 1854, when in the General Conference of the Methodist Episcopal Church, South, the following resolution was "offered, read, and adopted":

Resolved, That the Discipline be amended by adding, at the end of Section 2, Chapter 2, page 30, the following—viz.:

Provided, That when any rule or regulation is adopted by the General Conference, which, in the opinion of the bishops, is unconstitutional, the said bishops may present to the General Conference their objections to such rule or regulation, with the reasons thereof; and if, after hearing the objections and reasons of the bishops, two-thirds of the members of the Conference present shall still vote in favor of the rule or regulation so objected to, it shall have the force of law; otherwise it shall be null and void. WILLIAM A. SMITH.
T. JOHNSON.

The above quotation contains the full record of the adoption of this measure as given in the Journal.[1] It will be observed that there is no proposition to submit it to the Annual Conferences as a constitutional amendment. It was nevertheless incorporated in the Discipline, following the Restrictive Rules, just where the similar *proviso* is now found. The matter came up, however, at the General Conference of 1866, and was much debated. Dr. Smith, its author, himself introduced resolutions calling in question its validity, and in speaking to them said: "I will give a little of the history of that law. I remember that Bishop Soule made his speech following me, and that it passed by an almost unanimous vote. You have never presented it to any of the Annual Conferences. Why it was not done, I cannot tell." This failure to pass it around, he

[1] General Conference Journal, 1854, p. 356.

claimed, was an oversight; that it was never intended it should become law until approved by three-fourths of the traveling preachers; that he had intended to bring the matter up in 1858, but had overlooked it, etc.[1] However this may have been, the General Conference of 1866 took no action upon his resolutions, and the *proviso* remained in the Discipline for another quadrennium.

At the General Conference of 1870 the Committee on Episcopacy were "instructed to inquire into the validity of the last proviso in the Restrictive Rules, under the circumstances of its introduction into the Discipline, and to report whether any additional legislation is necessary respecting said rule." Accordingly, they brought in a very elaborate report, covering seven pages of the printed Journal.[2] Their opinion as to the first question was that the *proviso* was void; and as to the second, they recommended the following:

Resolved, That the following proviso, if it receive a two-thirds majority of this body, be sent round to the several Annual Conferences; and if it receive a three-fourths vote of the same, it shall be inserted in the Discipline in lieu of the aforesaid paragraph;

Provided, that when any rule or regulation is adopted by the General Conference, which, in the opinion of the bishops, is unconstitutional, the bishops may present to the Conference which passed said rule or regulation their objections thereto, with their reasons, in writing; and if then the General Conference shall, by a two-thirds vote, adhere to its action on said rule or regulation, it shall then take the course prescribed for altering a Restrictive Rule, and if thus passed upon affirmatively, the bishops shall announce that such rule or regulation takes effect from that time.

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[1] General Conference *Daily Advocate*, 1866, pp. 35, 36.

[2] General Conference Journal, 1870, pp. 281–287.

This possesses one very great superiority over the defeated amendment of 1824, in that it embraces for protection the entire constitution, and not simply the Restrictive Rules.

For some reason which is unexplained in either the Journal or the General Conference *Daily Advocate,* the committee had leave to withdraw all of the report except the resolutions, and only the latter were adopted, the vote standing: Ayes, 160; nays, 4. In the Annual Conferences the vote stood: Ayes, 2,024; nays, 9.

Thus, fifty years after the need of it was first formally recognized by the General Conference, a tribunal was incorporated by constitutional amendment, consisting of two thousand members at the time, and rapidly increasing, sitting in many sections, and scattered over a continent and beyond the seas, finally to decide, by main strength, nice questions of constitutional law. This court, composed now of six thousand justices, has been in existence over thirty years and has never yet docketed a case, while the episcopal veto has been interposed but once. The Church has had peace. If a sharp contention should arise between a majority of the bishops on one side and two-thirds of the General Conference on the other, would peace be conserved by carrying their contention into the Annual Conferences for debate and adjudication? Surely, a better way would be to shape our veto proviso after the models furnished by the Constitutions of the States, and invest regular Church courts with exclusive and ultimate jurisdiction of the constitutional questions that may arise, or else to make the veto itself final, just as it would be if the bishops were a separate legislative

branch, like the House of Bishops of the Protestant Episcopal Church or the Senate of the United States.

In 1878 certain amendments were sent down to the Annual Conferences, and adopted by them, whose origin involves some interesting history.

Titles to the seats of three delegates elect to the General Conference of 1878 were called in question, as follows: (1) A duly qualified traveling preacher had been chosen by the Denver Conference, of which he was at the time of his election a member. Before the meeting of the General Conference he was transferred to the Louisville Conference. His right to a seat was questioned upon the ground, as claimed, that a Conference could not be represented by a person not a member of it. The constitution provided that "such representatives shall have traveled at least four calendar years from the time that they were received on trial, and are in full connection at the time of holding the Conference." The claimant was awarded the seat, and in the interest of clearness this clause was amended so as to read: "Provided such representatives shall have been traveling preachers at least four calendar years next preceding their election, and are in full connection with an Annual Conference when elected, and also at the time of holding the General Conference." (2) An Annual Conference which was entitled to but two lay delegates elected a local preacher as one of them. The constitutional provision was that "one-fourth" of the lay delegates might be local preachers. The General Conference, upon grounds which it is difficult to justify or comprehend, awarded the seat to the claimant, who was in his own person one-half the lay delegation. Apparently, however, not quite sure of its ground in deliver-

ing this decision, it proposed that the language be altered so as to read: "Of the lay members from an Annual Conference, one may be a local preacher." This rule, it will be observed, is a more liberal provision for the local preachers in the small Conferences, and less liberal for those in the large Conferences. (3) The third case was that of a lay delegate who had been a member of the Church for many years, but within six years before the General Conference had been expelled from the Church and had joined again. The constitution provided that lay representatives "shall have been members of the Church for at least six years at the time of holding the Conference." The claimant had been a member six years, but not continuously next preceding the Conference. To remove all doubt, the constitution was made to read that lay delegates "shall have been members of our Church for at least six calendar years next preceding the time of their election, and also at the time of holding the General Conference." Controversies over the seating of delegates have been very rare, and it is remarkable that three cases should have arisen at the same time, each under a different provision of the constitution, and each leading to an amendment of some portion of that instrument.

The fourth clause amended at the same time had previously, in 1870, been mutilated.[1] Originally it read: "No Conference shall be denied the privilege of two lay delegates." Mutilated in 1870, it was now, in 1878, elaborated into Answer 2, below. It will be observed that this answer as it stands adds absolutely nothing to the first paragraph of Answer 1, and the

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[1] See Chapter VII.

second *proviso* of the second Restrictive Rule as amended at the same time.

The full text of the amendment of 1878, recommended by the General Conference and adopted by the Annual Conferences, is as follows:

Ans. 1. The General Conference shall be composed of *one* clerical member for every *thirty-six* members of each Annual Conference, and an equal number of lay members. Of the lay members from an Annual Conference, one may be a local preacher.

The clerical representatives shall be elected by the clerical members of the Annual Conference; *provided,* that such representatives shall have been traveling preachers at least four calendar years next preceding their election, and are in full connection with an Annual Conference when elected, and also at the time of holding the General Conference. The lay representatives shall be elected by the lay members of the Annual Conference; *provided,* that such representatives be twenty-five years of age, and shall have been members of our Church for at least six calendar years next preceding the time of their election, and also at the time of holding the General Conference.

2. An Annual Conference, entitled under the second Restrictive Rule to one ministerial delegate, shall not be denied the privilege of one lay delegate, and he may be a local preach er.

The Committee also recommend that the second Restrictive Rule in the Discipline, page 36, be so amended as to read as follows—viz.:

2. They shall not allow of more than one representative for every eighteen members of the Annual Conference, nor allow of a less number than one for every sixty; *provided,* nevertheless, that when there shall be in any Annual Conference a fraction of two-thirds the number which shall be fixed for the ratio of representation, such Annual Conference shall be entitled to an additional delegate for such fraction; and *provided,* also, that no Conference shall be denied the privilege of two delegates, one clerical and one lay.

CHAPTER VI.

The Constitution as It Is.

Having now presented the original and all the amendments, we may venture to present the full text of the constitution as it is to-day:

"Of the General Conference.

"*Ques.* Who shall compose the General Conference, and what are the regulations and powers belonging to it?[1]

"*Ans.* 1. The General Conference shall be composed of *one* clerical member for every *forty-eight* members of each Annual Conference, and an equal number of lay members. Of the lay members from an Annual Conference, one may be a local preacher.

"2. The clerical representatives shall be elected by the clerical members of the Annual Conference; *provided,* that such representatives shall have been traveling preachers at least four calendar years next preceding their election, and are in full connection with an Annual Conference when elected, and also at the time of holding the General Conference. The lay representatives shall be elected by the lay members of the Annual Conference; *provided,* that such representatives be twenty-five years of age, and shall have been

[1] This question was not in the Report of the Committee of Fourteen, 1808. Its first member was in the Discipline from 1792, and its second, "What are the regulations," etc., was supplied by the editor of the Discipline of 1808.

members of our Church for at least six calendar years next preceding the time of their election, and also at the time of holding the General Conference.

"3. An Annual Conference, entitled under the second Restrictive Rule to one ministerial delegate, shall not be denied the privilege of one lay delegate, and he may be a local preacher.

"4. The ministers and laymen shall deliberate in one body; but upon a call of one-fifth of the members of the Conference, the lay and clerical members shall vote separately, and no measure shall be passed without the concurrence of a majority of both classes of representatives.

"5. The General Conference shall meet on the first day of May, in the year of our Lord 1812, in the city of New York, and thenceforward on the first day of May once in four years perpetually, in such place or places as shall be fixed on by the General Conference from time to time; but the General Superintendents, with or by the advice of all the Annual Conferences—or, if there be no General Superintendent, all the Annual Conferences respectively—shall have the power to call a General Conference, if they judge it necessary, at any time.

"6. At all times when the General Conference is met, it shall take a majority of the representatives of all the Annual Conferences to make a quorum for transacting business.

"7. One of the General Superintendents shall preside in the General Conference; but in case no General Superintendent be present, the General Conference shall choose a President *pro tempore*.

"8. The General Conference shall have full powers

to make rules and regulations for our Church, under the following limitations and restrictions—viz.:

"(1) The General Conference shall not revoke, alter, or change our Articles of Religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine.

"(2) They shall not allow of more than one representative for every eighteen members of the Annual Conference, nor allow of a less number than one for every sixty; *provided, nevertheless,* that when there shall be in any Annual Conference a fraction of two-thirds the number which shall be fixed for the ratio of representation, such Annual Conference shall be entitled to an additional delegate for such fraction; and *provided,* also, that no Conference shall be denied the privilege of two delegates, one clerical and one lay.

"(3) They shall not change or alter any part or rule of our government, so as to do away episcopacy or destroy the plan of our itinerant general superintendency.

"(4) They shall not revoke or change the General Rules of the United Societies.

"(5) They shall not do away the privileges of our ministers or preachers of trial by a committee, and of an appeal; neither shall they do away the privileges of our members of trial before the society or by a committee, and of an appeal.

"(6) They shall not appropriate the produce of the Book Concern, or of the Charter Fund, to any purpose other than for the benefit of the traveling, supernumerary, superannuated, and worn-out preachers, their wives, widows, and children.

"*Provided, nevertheless,* that upon the concurrent recommendation of three-fourths of all the members

of the several Annual Conferences who shall be present and vote on such a recommendation, then a majority of two-thirds of the General Conference succeeding shall suffice to alter any of the above restrictions, excepting the First Article; and also whenever such alteration or alterations shall have been first recommended by two-thirds of the General Conference, so soon as three-fourths of the members of all the Annual Conferences shall have concurred as aforesaid, such alteration or alterations shall take effect.

"*Provided,* that when any rule or regulation is adopted by the General Conference, which, in the opinion of the bishops, is unconstitutional, the bishops may present to the Conference which passed said rule or regulation their objections thereto, with their reasons, in writing; and if then the General Conference shall, by a two-thirds vote, adhere to its action on said rule or regulation, it shall then take the course prescribed for altering a restrictive rule; and if thus passed upon affirmatively, the bishops shall announce that such rule or regulation takes effect from that time.

"*Of the Annual Conferences.*

"*Ques.* Who shall compose the Annual Conferences?

"*Ans.* [*Such preachers as may be prescribed by law*[1]] and four lay representatives, one of whom may be a local preacher, from each presiding elder's district, to be chosen annually by the district stewards, or in such other manner as the Annual Conference may direct, who shall participate in all the business of the

[1] The words in italics are supplied by the writer. For explanation, see page 51.

Conference, except such as involves ministerial character and relations; provided, that no one shall be a representative who is not twenty-five years of age, and who has not been for six years, next preceding his election, a member of the Church."

CHAPTER VII.

Mutilations of the Text of the Constitution.

The reader who will take the trouble to compare the constitution as correctly set forth in Chapter VI. with the text as given in Paragraphs 32-46 of the Discipline will discover quite a number of important variations, the nature and origin of which will now be explained.

The first difference is between Paragraphs 36-39 of the Discipline, and answer 5, *supra*, Chapter VI. In the Discipline the subject-matter of this answer is cut up into four paragraphs, in which are embraced sundry changes and interpolations, to wit:

Paragraph 36. The General Conference shall meet in the month of April or May, once in four years perpetually, in such place or places as shall be fixed on by the General Conference from time to time.

Paragraph 37. The bishops, or a majority of all the Annual Conferences, shall have authority to call a General Conference, if they judge it necessary, at any time.

Paragraph 38. When a General Conference is called, it shall be constituted of the delegates elected to the preceding General Conference, except when an Annual Conference shall prefer to have a new election. The place of holding a called session of the General Conference shall be that fixed on by the preceding General Conference.

Paragraph 39. The bishops shall have authority, when they judge it necessary, to change the place appointed for the meeting of the General Conference.

Paragraphs 37, 38, 39, excepting the last sentence of Paragraph 38, were introduced into the Discipline in 1866 by simple resolution of the General Conference.

The propriety of providing more specifically for called sessions was doubtless suggested by the events of the preceding four years. The General Conference of 1858 had appointed the next meeting to be held in New Orleans in April, 1862. The war between the States prevented the meeting, and as it continued until the spring of 1865 it was practically impossible, under the rigorous terms of the constitution, requiring all the Annual Conferences to concur, for a special session to be called to meet much earlier than the time for a regular session. No matter how imperative the need of an early session of that body to rehabilitate the Church after the disorganizing ravages of war, it would have been impossible to get a call through all of the Conferences until December or January following the close of the war. As an extra session would probably never be called except in a great emergency, the inadequacy of the old plan for promptly assembling the General Conference was apparent, and hence the new legislation was proposed. The movers of it, however, were seemingly unconscious that they were proposing to alter a provision of the constitution, and it was adopted without debate and apparently without scrutiny by the Conference. The desirability of the change was universally recognized, and the unconstitutionality of the method of making it was entirely overlooked.

Paragraph 36 and the last sentence of Paragraph 38 are not so easily accounted for. The Convention which organized the Church at Louisville in 1845 undertook by resolution to alter the fifth answer so as to read as follows:

> The General Conference shall meet on the first of May in the year of our Lord 1846, in the town of Petersburg, Va.,

and thenceforward in the month of April or May, once in four years successively, and in such place and on such day as shall be fixed on by the preceding General Conference.[1]

It appears that this amended form was not inserted in the Discipline except that "1846, in the town of Petersburg, Va., was substituted for "1812, in the city of New York." In the Discipline of 1870 the paragraph appears thus:

The General Conference shall meet in the month of April or May once in four years, etc.

In the same edition of the Discipline appears for the first time, in Paragraph 38, at the end of the directions concerning called sessions, the following:

The place of holding a called session of the General Conference shall be that fixed on by the preceding General Conference.

A diligent search of the Journal of the General Conference of 1870 fails to disclose any action of that body ordering either of these changes as they appear in the Discipline of that year. A key to the mystery of their unexplained presence, however, may be found in the following: The General Conference of 1866 directed the appointment of a "special committee of three to rearrange the book of Discipline, and to report their rearrangement to the next General Conference." [2] On the first day of the session of 1870 this committee presented a report in printed form, a copy of which was given to each member of the Conference, and it was referred to the Committee on Revisals.[3] The report of

[1] "History of the Organization of the M. E. Church, South," p. 232.

[2] Journal of the General Conference, 1866, p. 126.

[3] *Ibid.*, 1870, pp. 158, 176.

the latter committee was as follows: "Your committee have had under careful consideration the rearrangement of the book of Discipline reported by the special committee appointed by the last General Conference, and approve the same, and recommend its adoption by this General Conference, subject to such minor changes as may be judged advisable." [1] In advocating the adoption of this report, Dr. Hamilton, the chairman of the committee, said that the rearrangement had left the Discipline virtually intact, with but little change, and it was more than likely that the committee, after four years of consultation on this subject, would have made the changes that were necessary better than they could be made by any one in the short time in which it would be done here.[2] This explanation seems to have been accepted as sufficient, and their report was adopted without apparent opposition.

One might safely conclude, from the resolution under which the Committee to Rearrange the Discipline was appointed, from the report of the Committee on Revisals, and from Dr. Hamilton's explanation, that the committee had neither received nor exercised authority to make any change in the laws of the Church or even in the verbiage of the Discipline; that in the course of years the changes and amendments introduced from time to time by piecemeal had somewhat jumbled matters, and that the committee had been appointed to straighten them out by putting things in their proper order and positions.

It is unfortunate that the report of the Committee of

[1] General Conference Journal, 1870, p. 182.

[2] General Conference *Daily Advocate,* 1870, May 12, p. 2. column 4.

Three was not copied into the Journal or printed in the *Daily Advocate,* so that an appeal to it might settle the questions raised here. There are, however, indubitable indications in the Journal and *Daily Advocate* that the committee did not confine itself to merely rearranging the Discipline, but also introduced a number of changes into the text, some of them being brand-new legislation. For example, it is incidentally stated in a report of the Revisals Committee that trustees "had been made members of the Quarterly Conference 'by the new arrangement,'" meaning, by the report of the Committee on Rearrangement.[1] Similar amendments and additions are indicated in other places.[2] Some of these are matters of vital importance. When one finds in the Discipline of 1870, therefore, changes for which no specific authority can be found in the Journal, the inference is legitimate that they were made by the Committee to Rearrange the Discipline. Such is the author's inference as to the origin of Paragraph 36 and the last sentence of Paragraph 38 of the Discipline.

There was another remarkable change made in the text of the constitution at the same time and presumably in the same way, the traces of which were swept away by the amendment of 1878. The amendment of 1866 contained this provision (see p. 52): "No Conference shall be denied the privilege of two lay delegates." Instead of this sentence, the Discipline of 1870 contains the following: "An Annual Conference, entitled under the second Restrictive Rule to two ministerial delegates, shall not be denied the privilege of two lay delegates also." It will be observed that the pro-

[1] Journal of the General Conference, 1870, p. 208.

[2] *Cf.* Journal, pp. 220, 250, 262, 263.

vision in the constitution fixed two as the minimum number of lay delegates from any Conference. The substituted provision has no reference to the matter of minimum representation, but requires that clerical and lay representation be equal—an unnecessary repetition of what is clearly stated in the preceding paragraph.

The General Conference of 1866 ordered the editor of the Discipline to substitute "Church" for "Society" where it occurs in the Discipline as representing the idea of "Church."[1] So, "Society" has been changed to "Church" in the fifth Restrictive Rule.

In the Discipline of 1858, "nor" before "establish" was changed by editor or intelligent compositor to "or" in the first Restrictive Rule without authority, and it has so continued to the present.

In the Discipline of 1854, apparently without authority, the words "Book Concern, or of the Charter Fund," were dropped, and "Publishing House" inserted, in the sixth Restrictive Rule.

The most remarkable of all the mutilations to which the constitution has been subjected occurred in 1870. It is preëminently remarkable because it occurred so soon after the adoption of the section of the constitution which suffered the mutilation. In 1866 the General and Annual Conferences, by concurrent votes of two-thirds and three-fourths respectively, adopted an amendment or addition to the constitution providing that, besides traveling preachers, the Annual Conference should be composed of "four lay representatives, one of whom may be a local preacher, from each presiding elder's district, to be chosen annually *by the district stewards, or in such other manner as the Annual*

[1]General Conference Journal, 1866, p. 127.

Conference may direct, who shall participate in all the business of the Conference, except such as involves ministerial character *and relations.*" Now observe:

In the General Conference of 1870, in Report No. 2 of the Revisals Committee, proposing the creation of District Conferences, was this provision:

> 6. The District Conference shall elect annually, by ballot, from the district, four delegates to the ensuing Annual Conference; *provided,* no member of the Annual Conference shall vote in said election.

This was clearly unconstitutional, as it took the election of lay delegates out of the hands of the district stewards, where it had been placed by the constitutional amendment of 1866, and undertook to commit it to the District Conferences, a thing which the Annual Conferences alone had the constitutional authority to do. No question as to its constitutionality was raised in the debate, however, and the measure was adopted.

At a later date Report No. 5 of the same committee recommended that in the section of the Discipline defining lay delegation in the General Conference the words "one-fourth of whom may be local preachers" be stricken out and "one of whom may be a local preacher" be inserted. When it was brought up for adoption a delegate "raised the point of order. The point was sustained by the Chair [Bishop Marvin], who decided that such a change of the constitution as is proposed by the amendment cannot be made without reference to the Annual Conferences. The report was then laid on the table."

This ruling of the Chair, thus acquiesced in by the General Conference, demonstrates that the Conference had no disposition to override the constitution nor to

take the ground that the provisions of 1866 for lay delegation in the General and Annual Conferences were not of the nature of constitutional amendments; and its prompt rejection of Report No. 5 when the point was made shows that a like fate would have overtaken Report No. 2 if the like question had been raised.[1]

Now comes the climax of this singular business. It will be observed that Report No. 2 did not undertake to alter the text of the constitution, but simply to insert, in another part of the Discipline, a provision which was in conflict with the constitution. A delegate discovered the conflict between the two, and, evidently not knowing that the older provision was in the constitution itself, offered this resolution, and it was promptly adopted:

> *Resolved,* That the law requiring lay representatives to be elected by the district stewards, etc., be conformed to the action of this Conference on the subject of District Conferences.[2]

On the strength of this resolution, apparently, the editor of the Discipline struck out of the *constitution* the words "to be chosen annually by the district stewards, or in such other way as the Annual Conference may direct," and substituted these: "The lay members shall be chosen annually by the District Conferences."[3] There they stand to this day.

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[1] In 1878 this identical amendment, along with others, was recommended to the Annual Conferences for adoption by the constitutional process, and was adopted. In every instance where the question has been distinctly raised in the General Conference that body has recognized as part of the constitution the plan of lay delegation adopted in 1866.

[2] General Conference Journal, 1870, p. 346.

[3] Discipline, 1898, Paragraph 45.

The same Committee on Revisals, by its Report No. 3, which was adopted, recommended that the words "and relations" as they occur in the constitutional amendment of 1866[1] be stricken out, and their report was adopted.[2] Under the operation of this act laymen in the Annual Conferences have for thirty years been voting upon questions affecting the "relations" of preachers, though expressly prohibited by the constitution.

That this whole section about laymen in the Annual Conferences is part of the constitution, and not subject to change by the General Conference, has been authoritatively declared by the College of Bishops in the only veto ever interposed by them. At the General Conference of 1894 a law was passed which seemed to confer upon the members of the Annual Conference indiscriminately, including the lay delegates, the right to serve as jurors in the trial of traveling preachers. Thereupon the bishops, through their senior colleague, presented their written objections thereto, as follows:

MESSAGE OF THE BISHOPS.

To the General Conference of 1894.

Dear Brethren: The College of Bishops in session have duly considered the action of the General Conference, on Saturday the 19th of May, in adopting the revised form of Chapter VII., entitled "Administration of Discipline," as reported by the special committee of seven, and would respectfully interpose their veto to the said action, in Paragraph 260, as violative of the constitutional provisions of the Plan of Lay Representation, adopted in 1866, by the General Conference, held in New Orleans, by a two-thirds vote, and subsequently by the three-fourths vote of all the members of the several Annual Confer-

[1] *Supra*, pp. 51, 52.

[2] General Conference Journal, 1870, pp. 207, 340.

ences of the Methodist Episcopal Church, South, in the same year.

This paragraph, 260, adopted on Saturday, reads as follows: "Every case to be tried shall be referred to a committee of not less than nine nor more than thirteen, who shall be selected by lot from the members of the Conference, who, in the presence of a bishop or a chairman whom the President of the Conference shall appoint, and one or more of the Secretaries, shall have full power to try the case, and their decision shall be final, save as to the right of appeal."

In the adoption of the plan by which laymen were introduced into the General and the Annual Conferences in 1866, the right of ministers who were also members of the Conferences to be tried by ministers only, as heretofore, was specially guarded and reserved in the following words and action (see Journal of General Conference of 1866), to wit: "The committee charged with the duty of bringing in a plan for effecting lay representation in the Annual and General Conferences submit the following: In the Annual Conference after the word 'service' (page 48 of the Discipline), insert: 'And four lay representatives, one of whom may be a local preacher, from each presiding elder's district, to be chosen annually by the district stewards, or in such other manner as the Annual Conferences may direct, who shall participate in all the business of the Conferences, *except such as involves ministerial character and relations;* provided that no one shall be a representative who is not twenty-five years of age, and who has not been for six years next preceding his election a member of the Church.'"

It will be seen that this right, guarded and reserved by the ministry as to their ministerial character and relations, was in the body of the Plan of Lay Representation, which was submitted and adopted upon the concurrent recommendation of three-fourths of all the members of the several Annual Conferences present and voting, and of a majority of two-thirds of the General Conference, and became thereby a constitutional provision, which cannot be invaded or changed by any mere ruling, or resolution, or statutory action of the General Conference.

This violation of a constitutional provision is now formulated and presented, by the action of this General Conference on

Saturday, May 19, as an article of the Discipline (Paragraph 260, Report of Committee) which proposes that a Committee of Trial shall be taken indiscriminately, by lot, from a body composed of laymen and ministers, to try both the character and relations of ministers only.

This rule and regulation as set forth in the said Chapter VII. and Paragraph 260, and as adopted by this General Conference, is, in the opinion of the College of Bishops, unconstitutional, and can become law only by taking the course prescribed for altering a Restrictive Rule, as set forth in Paragraph 43 of the Discipline of 1890.

J. C. KEENER, *President.*

Memphis, Tenn., May 21, 1894.

It is unfortunate that from the very first the constitution was not placed in the Discipline in a chapter to itself and distinctly labeled "Constitution." Printed along with the rest of the Discipline as it is, without title, note, or typographical arrangement to indicate its authority and character, it is not surprising that now and then the real nature of its contents has been mistaken and it has suffered unintentional mutilation. It is high time for the Church to dig a ditch and plant a hedge about it.

CHAPTER VIII.

The Judicial System.

When, in 1820, twelve years after the adoption of the constitution, a serious and threatening controversy arose over the proper interpretation of that instrument, the General Conference recited in a formal resolution that "there did not appear to be any proper tribunal to judge of and determine" the constitutionality of acts of the General Conference. In harmony with this appear to have been the views of Bishop McKendree.[1] A committee of the General Conference of 1870 (Dr. Leroy M. Lee, Chairman) argued in favor of the veto amendment then proposed, that "without some provision of the constitution, such as was aimed to be established in the *proviso* under consideration, there is no legitimate or authoritative mode, either of questioning the constitutionality of General Conference acts, or of remitting them to another tribunal for adjudication." [2] Bishop McTyeire says: "This want of a constitutional test must be supplied sooner or later by the civil, if not by the Church, courts." [3] To like purpose Dr. Tigert says: "In 1820 the constitution of 1808 was subjected to its first severe strain, and a grave defect in its provisions was revealed. No tribunal had been provided to pass upon the constitutionality of the acts of the General Conference." [4]

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[1] *Supra,* p. 63.

[2] General Conference Journal, 1870, p. 285.

[3] "History of Methodism," p. 569.

[4] "Constitutional History," p. 353.

The opinions of doctors of the law so eminent as those whose words are here quoted are entitled to very great respect; but they are not final. The author feels constrained respectfully to differ from them. As to whether there was in 1820 a "proper" tribunal for adjudicating constitutional questions, that is purely a matter of opinion; but that there was at that time a duly constituted tribunal of competent jurisdiction to try and determine the matter at issue, older than the constitution itself, well known, and which continues with us to this very day, admits of no doubt. That tribunal was the General Conference itself, *sitting as a court.*

There exists much confusion of thought as to how and under what circumstances the judicial powers of the General Conference may be exercised, and particularly the strictly judicial function of interpreting laws and constitution. The General Conference is not a judicial body except when, by due process of law, a case comes before it for trial. Prior to 1866 there were three well-defined classes of cases of which the General Conference took judicial cognizance, to wit: Accusations against bishops, appeals from the Annual Conferences, and the determination of the election and qualifications of its own members. In 1866 a separate court was created for the trial of appeals, and in 1894 a similar court was created for the trial of bishops, subject to appeal to the General Conference. That the General Conference always had the constitutional authority to exercise judicial powers in such cases, and by statute to create such courts, has never been questioned nor can it be successfully assailed.

No deliverance by the General Conference as to the construction of the constitution except in the necessary

decision of a cause duly before it for trial carries with it any binding authority whatever. Similarly, the opinion of a bishop upon a question of law, except as the same may come before him in the regular business of a Conference, is merely the opinion of a highly respectable gentleman who can be presumed to know what he is talking about. During the pendency of the discussion of the right of women to seats in the General Conference of the Methodist Episcopal Church, there was much controversy over the meaning of the word "laymen" in the constitution, as to whether it meant women as well as men; and there were frequent efforts made to give it authoritative interpretation by mere resolutions of the General Conference. The interpretation of such a constitutional provision being in its nature a judicial act, it could legitimately come before the General Conference only while engaged in determining some personal right claimed and controverted under it; and until women were, in 1888, actually elected and sent to the General Conference, such deliverances were mere *dicta,* and without authority. When, however, a woman appeared at its bar bearing credentials of election as a member thereof, then the constitutional question was legitimately before it for judicial examination and decision.

The General Conference of the Methodist Episcopal Church, South, which met at Atlanta, Ga., in 1878, had before it for adjudication three cases involving construction of the constitution, and there was no question of its power to adjudicate them. The first was the case of a delegate elected by the Denver Conference, who was, after his election and before the meeting of the General Conference, transferred to the Louisville

Conference. His right to a seat as a delegate from the Denver Conference was questioned, and depended upon the following provisions of the constitution (since amended): "The clerical representatives shall be elected by the clerical members of the Annual Conference; provided that such representatives shall have traveled at least four calendar years from the time that they were received on trial, and are in full connection at the time of holding the Conference." The General Conference very properly adjudged that the claimant, possessing these qualifications, was entitled to his seat, notwithstanding the change in his Conference relations. He could not be deprived of it at the pleasure of the episcopacy by the exercise of its prerogative to transfer traveling preachers. The second case was that of a local preacher who was elected as a lay delegate from a Conference entitled to only two lay delegates. The constitution provided at that time that "one-fourth of the lay delegates may be local preachers." The seat was not contested by any other claimant, and the General Conference, influenced more by easiness of temper than "constitutional morality," adjudged the seat to the claimant, who in his person constituted one-half of the lay delegates from his Conference. The third was a more complicated case, involving the right to a seat of a lay delegate who, it was claimed, had not been "a member of the Church for six years at the time of holding the Conference." He had been expelled from the Church within that period and had joined again, but came to the General Conference claiming that the method of his expulsion was illegal, the whole proceeding null and void, and that therefore he had been legally in continuous connection with the Church.

In this case the General Conference seems to have talked itself to exhaustion and reached no decision, thereby leaving the claimant in possession of his seat. All three of the foregoing cases involved the direct adjudication of constitutional questions by the General Conference, acting in a purely judicial capacity, and I do not know that the propriety of its exercising jurisdiction in the premises has ever been called in question.

The controversy between Bishop McKendree and the General Conference in 1820, already alluded to, came about in this wise: The General Conference passed a law providing for the election of presiding elders by the Annual Conferences. Bishop McKendree claimed, and many others with him, that this act was contrary to the third Restrictive Rule in that it tended to "destroy the plan of our itinerant general superintendency," one of the cardinal features of which was the authority of the bishops to appoint preachers to their fields of labor. Bishop McKendree stoutly proclaimed that he would not enforce the new law, upon the ground that it was unconstitutional, and therefore null and void. The General Conference, in a spirit of compromise, yielded in so far as to suspend the law for four years, and at the end of that time repealed it.

There were two ways in which, if there had been no compromise, the matter in controversy might have been brought before the next General Conference sitting as a court. The first and most direct method would have been to arrest the Bishop's character for "improper conduct," or contumacy in refusing to obey a law duly enacted by the General Conference. To such a charge the Bishop would have replied that there was no such law; that the resolution, passed by the

General Conference was contrary to the constitution, and therefore absolutely null and void. At the threshold of the trial, therefore, it would have been necessary for that august tribunal, in the due exercise of its legitimate powers, to decide judicially this question of law by passing upon and determining the constitutionality of an act of the previous General Conference.[1]

Again, the same question might have come before the same body sitting as a court of appeals. Let us suppose that Bishop McKendree had appointed Ezekiel Cooper presiding elder, and Ezekiel Cooper, standing out for the law as given by the General Conference, had refused to accept the office. At the next session of the Annual Conference he would have been subject to trial for refusal to do the work assigned him. From a decision against him he could have appealed to the General Conference under the specific guaranty of the constitution itself, fifth Restrictive Rule, and the court thus appealed to would have been compelled to "judge of and determine" the constitutionality of an act of a preceding General Conference.

Nor is the General Conference alone in the possession of power to interpret the constitution. The society, the Quarterly Conference, and the Annual Conference, through their committees of trial, alike possess judicial powers for the trial of private members, and local and traveling preachers. Before any of these tribunals constitutional questions are liable to arise, and they must be decided. No court has the right to sanction and enforce a void enactment; and if a law

[1] This was identically the case brought before the Senate of the United States by the impeachment of President Andrew Johnson.

be attacked as unconstitutional, and therefore void, the court is compelled to adjudicate the question, however humble that court may be, and however limited its jurisdiction. Such decisions of inferior courts are, of course, reviewable by higher courts, and not until they reach a supreme appellate court do the questions raised receive final and authoritative adjudication. One of the very important constitutional questions decided by the Supreme Court of the United States in recent times was carried up, step by step, from a Tennessee magistrate's court, where it had been first passed upon.

By reference to the words quoted in the first paragraph of this chapter from the resolution of the General Conference of 1820, it will be observed that a discrimination is used which is not observed in the other quotations which follow it. There is, says the resolution, no "proper" tribunal. It may readily be conceded that for several reasons the succeeding General Conference could not furnish just the relief needed in the controversy then pending. There must intervene four years before it would sit. Two of the three bishops were in favor of acquiescing in the action of the General Conference and putting the new rule into operation. The Church, therefore, would for four years be treated to the unseemly spectacle of a divided episcopacy, administering law contrariwise, leading to strife and confusion worse confounded. In the districts, also, there would be trouble; for inevitably there would be some who would refuse to receive presiding elders appointed otherwise than according to their own views. These considerations made delay dangerous. Another objection to the adjudication of such a question in connection with a charge of maladministration,

apart from the question of delay, lies in the indisposition of the judges to punish or even to rebuke an official so exalted and so highly esteemed as a bishop, for simply standing unwaveringly by his convictions of right. Being a case in which no moral delinquency is involved, the tendency would be to acquit, right or wrong.

In opposition to the stand taken by Bishop McKendree a vigorous protest was prepared and numerously signed, but was not presented. Fortunately it was preserved by Ezekiel Cooper, probably its author, and has been published in recent years.[1] The gist of it, perhaps, is stated in the following terse paragraph:

> We do most solemnly protest against the high-toned doctrine set up in advance: that the episcopacy are to judge of the constitutionality of proceedings of the General Conference: and that their judgment or opinion is to overthrow, make void, suspend, and put at defiance the decisions and proceedings of a General Conference.

In another paper Cooper wrote:

> McKendree intimated in plain terms that he knew of no tribunal to test and determine the constitutionality of the proceedings of the General Conference excepting the episcopacy.

Now, nothing is clearer to the attentive reader of McKendree's communication to the General Conference, another communication to the same which was prepared and not sent, and extracts from his journal bearing upon this subject, all set forth in Paine's "Life of McKendree," than that he carefully avoided making

[1] "Beams of Light on Early Methodism in America," 1887; quoted in the *Christian Advocate* (N. Y.) December 6, 1900, pp. 7, 8.

any such exclusive claim in behalf of the episcopacy. The position which he assumed was a perfectly tenable and correct one, being simply the assertion of a right belonging to or, more accurately, a necessity laid upon, the episcopacy because it chanced that the enforcement of the obnoxious law devolved upon that office. The fact is, that in a constitutional government all laws prescribing the duties and directing the actions of an executive officer, however humble his station, have to be construed by that officer, and he executes an unconstitutional statute at his peril. Take an example: The constitution of the United States provides that "no warrant shall issue [for search or seizure] but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." It will hardly be claimed that if Congress should pass an act authorizing a marshal to make searches and arrests upon warrants unsupported by oath or affirmation, and without describing persons or places, it would be his duty to execute them in any given case. Any steps taken by him under authority of such a statute would be without warrant of law because the statute itself would not be law. Officers of the law are bound to enforce the laws, but not void acts, even though they be acts of lawmakers. The act of the officer in deciding what he will do in such a case is not a judicial one, for it simply determines his own personal conduct, and any one having a legal interest in the matter may hale him before the judge and there have the matter adjudicated. In acting upon his own judgment in a given case the officer may make a mistake and render himself liable for damages or impeachment; of these he takes the risk,

From the very nature of the case he must determine what he will do, and abide the consequences. It is as imperatively the duty of an executive officer to ignore a void statute as to enforce a valid one. Bishop McKendree was in a position where he was compelled to decide what should be *his own* official conduct in the premises. He decided for McKendree, and not for George nor for Roberts; and he so decided knowing that the next General Conference would have unquestionable jurisdiction to pass judgment upon the correctness of his decision. There was no pretense of having a veto power, nor that the "judgment or opinion" of the bishops could overthrow, make void, suspend, and put at defiance the decisions and proceedings of a General Conference." If, as stated by Dr. Buckley,[1] Ezekiel Cooper was justly considered by the fathers as the most thoroughly trained and powerful intellect among them, he probably came to realize that the language of the protest went entirely too far, and therefore refrained from presenting it.

It will readily occur to the reader that the established courts of the Church, whose several jurisdictions are defined in Chapters VII. and VIII. of the Discipline, take cognizance of nothing but the personal delinquencies of preachers and people, dealing only, if we may without offense borrow a phrase from the civil law, with the criminal side of the law—*i. e.,* that which regulates individual conduct. There are many laws in the Discipline which, from their nature, never pass in review before such courts, just as, in the laws of the land, a vast number of statutes never find their way into the criminal courts. In the absence of ecclesiastical

[1] *Christian Advocate,* New York, December 6, 1900, p. 7.

judicatories to take cognizance of these laws, their interpretation of necessity devolved upon those whose duty it was to administer them. To cure a defect so obvious in our judicial system, the General Conference of 1840 made it the duty of the bishops "to decide all questions of law in an Annual Conference, subject to an appeal to the General Conference," and of the presiding elders to "decide all questions of law in a Quarterly Conference, subject to an appeal to the president of the next Annual Conference," thus by positive enactment giving judicial force to these administrative interpretations.

By the adoption of these new sections a tremendous advance was made in the direction of providing for the authoritative interpretation of all the laws, including, of course, the constitution itself, which is the supreme law. "Deciding questions of law" implies deciding both what is the law and what is its interpretation. And as no "rule or regulation" is law if it conflict with the constitution, to declare that an act of the General Conference is law is tantamount to declaring that it is constitutional; and *vice versa.* Had Bishop McKendree been armed with such judicial authority in 1820, he would have been absolutely without embarrassment; for when the question of the presiding elders arose in an Annual Conference he would have decided the new law unconstitutional and proceeded with the business regardless of it. Upon appeal the question would have been carried to the next General Conference sitting as a court of appeals, and there, entirely relieved of the embarrassment involved in trying a bishop, it would have come up simply as an appeal from a decision which he had lawful authority to deliver,

and the matter would have been regularly and finally settled.

The constitutionality of the act creating the several courts (or trial committees) mentioned in this chapter, and those conferring judicial powers upon the presidents of Annual and Quarterly Conferences have never, to the writer's knowledge, been called in question. They seem to be strictly within the grant of "full power" to the General Conference to make rules and regulations, and not to be within the prohibitions of the Restrictive Rules. If so, it follows that under the constitution of 1808 there has always existed ample authority in the General Conference to create all courts necessary to construe the constitution and laws of the Church, and that that authority has been liberally exercised.

Wide, however, as is the range of subjects judicially cognizable by the trial committees in the several grades of Conferences, and by the presidents of those Conferences, the fact remains that there are many laws which do not pass under review before these tribunals, and whose constitutionality cannot easily be tested therein. Take this case, for example: Suppose the General Conference should vote to donate fifty thousand dollars of the profits of the Publishing House to endow a chair in Vanderbilt University. That, undoubtedly, would be an unconstitutional act; but suppose the Agents of the Publishing House should feel bound to obey the mandate of the General Conference, and prepare to pay over the money. In what court of the Church could the payment be enjoined. Or, on the contrary, suppose they should refuse to obey what they believed to be an unconstitutional act. In what court of our Church

could we settle the question, and avoid the shame of going before Cæsar with our quarrel?

Likewise, many delicate questions of law arise in the administration of the various general Boards of the Church, as the Board of Missions, of Church Extension, etc., and there is no Church court to which they can resort for authoritative direction, nor any tribunal of the Church before which they can be brought to prevent an illegal act upon their part. There are laws for their guidance, but no courts to compel obedience. Though all the bishops be present at a meeting of one of these Boards of which they may be members, they are absolutely helpless, except by their votes, to prevent unlawful acts.

An enlargement of the jurisdiction of our ecclesiastical courts is greatly to be desired.

CHAPTER IX.

The Reserved Powers of the Traveling Preachers.

The attentive reader has observed that the traveling preachers who, assembled in the old General Conference or Mass Convention, exercised absolute, unlimited, and exclusive power over the Church prior to the adoption of the constitution, did not, when they made that instrument, delegate all their powers to the new representative body. They specifically withheld the powers enumerated in the Restrictive Rules, and, by necessary implication, certain others which will be mentioned. The session of 1808, having completed its work, adjourned without day, having provided no means by which the whole body of the preachers could again be convened. As a matter of fact, they have not since met, and from the nature of the case will never meet again. What, then, has become of the powers which they so carefully withheld from the delegated General Conference, and by whom, and in what manner, may they still be exercised?

That the denial of these powers to the new, delegated General Conference was in effect a reservation of them to themselves would seem to go without the saying. The history of the constitution of the United States furnishes an instructive illustration in point. That instrument, as is well known, was designed to bring into being a new central government endowed with functions which had theretofore belonged to and been exercised, if at all, by the States separately, except in so far as the latter had found it convenient to resort to the

temporary device of a confederation. The powers to be exercised by this new central government were carefully enumerated in the constitution as drawn up by the convention. When it came to be submitted to the several States, however, for their ratification, many were afraid that other powers, not enumerated nor necessarily implied, would be claimed by the new government simply because they were not specifically withheld from it. In deference to this feeling of uncertainty, and in order to allay all anxiety on that account, the following amendment was adopted almost immediately after the ratification of the original instrument:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.—*Tenth Amendment, U. S. Constitution.*

Commenting upon this, Mr. Justice Story observes: "This amendment is a mere affirmation of what, upon any just reasoning, is a necessary rule of interpreting the constitution. Being an instrument of limited and enumerated powers, it follows irresistibly, that what is not conferred is withheld, and belongs to the State authorities, if invested with it by their constitutions of government respectively; and if not so invested, it is retained by the people, as a part of their residuary sovereignty." If this reasoning holds good for an instrument like the constitution of the United States, in which the powers delegated are carefully enumerated, while the reserved powers are not described in even the most general terms, how much more certainly does it apply to the constitution of our Church, which, instead of enumerating the delegated powers, enumerates only those which were expressly withheld? In a very able re-

port of the Committee on Episcopacy of the General Conference of 1870, signed, and presumably written, by Dr. Leroy M. Lee, Chairman, the same doctrine enunciated by Judge Story is strongly urged in order to show that there was, by necessary implication, a reservation of sovereign powers to the itinerant body:

> Within the limitations specifically stated the General Conference has "full powers" to make rules and regulations for our Church; outside of the restrictions, it has no power to make, to modify, or to revoke; to effect either of these changes, *or any other,* it is compelled to remit the subject to the judgment of the original body of elders. . . . It is incredible that such a body of men as those who inaugurated the constitution of the Church, and checked and restrained the General Conference with such limitations to their acts and such restraints upon their power, could have been so incautious and inconsiderate as to dispossess and deprive themselves so utterly of any further and all future relation to, and control over, those to whom they intrusted their rights and delegated their powers. Such a supposition would be an assault upon their integrity and intelligence as unjust as it is unmerited.

This argument was made in advocacy of a measure designed to prescribe the manner in which one of the reserved powers of the sovereigns should thereafter be exercised and asserted, but it fully recognizes the principle upon which all the implied reservations are based. That universal and supreme ecclesiastical power was not conferred upon the General Conference is readily admitted by all; but some balk at the idea that the powers not given away were reserved to, and may be exercised by, those from whom all power emanated. They seem not to understand that sovereign power in the American Church has resided in the traveling preachers ever since Mr. Wesley's name "was left off the minutes"; that the "old" General Conference was simply a

meeting of them in one place for the more convenient ascertainment of their sovereign will; and that the familiar principle of majority rule was fully recognized in the expression of that will. It was simply a question of conventional agreement as to when and where the sovereign power should be put forth in legislative acts. The ultimate power was in the traveling preachers themselves, and not in the corporate entity called the General Conference. That body was sovereign only because and in so far as it was composed of sovereigns. Its power depended upon them; theirs did not depend upon it. Destroy it—decree that it should never meet again—and every atom of sovereignty which had pertained to it would remain unimpaired and active in those who unitedly had formed it. Undoubtedly, the sovereign powers which belonged to the traveling preachers before the constitution was formed, and which they did not then pass over to the delegated General Conference, and have not since parted with, still inhere in them.

This necessary truth has been recognized by the Church from the beginning, though sometimes as through a glass darkly, and never in all its logical fullness. It has been discovered from time to time, by piecemeal, as it were, just as it was needed. The history of its progressive development as a recognized truth is full of interest. Its growth has had three stages.

1. It was first invoked to settle a dispute which arose in 1809 as to the constitutionality of a law under which the bishops organized the Genesee Conference; and then in 1820-24, to prevent the General Conference from putting in force a regulation for the election of presid-

ing elders, which was believed to be unconstitutional. The fact, the occasion, and the ground of these two appeals from the delegated General Conference to the sovereign traveling preachers may be found stated in Bishop McKendree's own words, quoted *supra,* page 63. His appeal in 1820-24 was to a supreme and sovereign power to put a stop, by the word of its indisputable authority, to a proposed usurpation of its own reserved prerogatives by its creature, the delegated General Conference. Seven of the twelve Annual Conferences entertained it as a proper subject for their consideration, and passed upon the question submitted, deciding in favor of Bishop McKendree's contention; while the other five declined to entertain the appeal at all. The ensuing General Conference adopted the following preamble and resolution:

> Whereas a majority of the Annual Conferences have judged the resolutions making presiding elders elective, and which were passed and then suspended at the last General Conference, unconstitutional; therefore,
>
> *Resolved,* That the said resolutions are not of authority, and shall not be carried into effect.

Here then, in this recognition by the episcopacy, the Annual Conferences, and the General Conference of reserved judicial powers, extra-constitutional, supra-constitutional, inherent in the traveling preachers and expressed in their organized capacity as Annual Conferences, is the first invocation of the reserved, undefined sovereignty of those preachers.

2. The second step was taken in 1858. When, in 1844, it was thought that the Book Concern property could not, by the General Conference, be divided between the two branches of the Church because of the

prohibition in the sixth Restrictive Rule, the General Conference submitted to the traveling preachers a recommendation that the rule be amended so as to remove it out of the way by giving two-thirds of the General Conference the right to suspend it. Fourteen years later, when the Southern Church desired to expunge the General Rule on slavery, protected against General Conference action by the fourth Restrictive Rule, it had come to understand, as it had not understood in 1844, that a prohibition upon the General Conference was not a prohibition upon the Church. A recommendation was therefore made to the traveling preachers to expunge the rule on slavery, and they proceeded to do it, without first altering one jot or tittle of the fourth Restrictive Rule. This was a direct legislative act by the sovereign constituency in their primary capacity, by means of a referendum or plebiscitum. A like recommendation for the alteration of a General Rule was submitted by the General Conference in 1874 without demurrer, though the measure failed for lack of what was erroneously considered to be the necessary majority—to wit, three-fourths.

3. In 1866 a still more advanced step was taken when, for the first time, one of the sections of the constitution not embraced in the Restrictive Rules was submitted to the traveling preachers for amendment, and was amended by a three-fourths vote of their body.

Here it will be seen that, first, the sovereigns, by a quasi-judicial process, asserted their right to prevent an invasion of their reserved powers by the General Conference. Secondly, they asserted their right to legislate directly upon a subject prohibited to the General Conference by a Restrictive Rule. Thirdly, they as-

serted their power to make and unmake that portion of the constitution not covered by the proviso to the Restrictive Rules.

Neither of the foregoing appeals to the sovereign will of the traveling preachers was made in pursuance of any provision of the constitution. In a sense neither of them was a "constitutional" act. When Bishop McKendree appealed to the traveling preachers to lay their restraining hands upon the General Conference and forbid it to do what it had no right to do; and when the General Conference appealed to the preachers to step forward and do that which needed to be done, but which it could not do, neither of them was acting in pursuance of any provision of the constitution or of any statute "for such cases made and provided"; but by virtue of a sovereign power which the constitution neither named nor defined, but whose potency was sufficient both to enforce and to supplement the provisions of that instrument. It is further important to note that in 1809 and in 1820 it was not considered that the mind of the sovereigns, in deciding the question submitted to them, must needs be expressed by such concurrence as was required by the proviso for the alteration of a Restrictive Rule; while in 1858, 1866, and 1874 the opinion seemed to prevail in the General Conference that the residuary sovereignty could be put forth only according to the prescription of that proviso. In order to determine which of these theories was right, or whether either was, it becomes necessary to go back to the time when every legislative act in the Church was a direct expression of the sovereign will, and before there was a constitution to confuse and mislead those who have sought to find in it the roots of all authority.

At the first, and until his "name was left off the minutes," John Wesley was the supreme legislative, judicial, and executive head of the Church. When the American preachers became dissatisfied with this form of autocracy, and declared for self-government, the familiar principle of majority rule was accepted as its natural and logical expression. Measures of a general character, says Abel Stevens, were submitted to the successive sections of the Conference [1] at their annual meetings, and, at the session of the last section, after all had had an opportunity to vote, were considered to be determined by the majority of votes in all; the minutes of all appeared, in print, as the records of but one Conference; and their enactments were from time to time inserted in the Discipline without reference to where and how they were enacted. This method proving for many reasons inconvenient and unsatisfactory, it was determined, after the abortive experiment of the Council, to have one general meeting of all the traveling preachers every four years to attend to the business of a legislative and connectional character. In this, the "old" General Conference, the same majority rule prevailed. Sixteen years later, when they formed the constitution, the traveling preachers thereby in effect did just two things: First, they delegated to a smaller and more select body of their number the power to transact all the business which had heretofore made it necessary for them to hold quadrennial meetings, excepting certain business which they forbade them to meddle with; and, secondly, the necessity therefor having thus been obviated, they resolved to hold no more

[1] There was then but one Conference, meeting in several sections called District Conferences.

stated meetings of the whole body of traveling preachers. Upon the rare occasions when their joint action might become necessary, recourse could be had to the old plan in vogue prior to 1792, of sending measures around from one Annual Conference to another until all the preachers should have had the opportunity of voting.

It may be said that the primitive, unwritten constitution or fundamental law of the Methodist Episcopal Church consisted of but this one article, "The duly declared will of a majority of the traveling preachers is the supreme law of the Church," and that it is still in full force and effect except to the extent that it has been modified by the written constitution. That instrument has made no change as to the majority rule except to provide that (1) to amend a Restrictive Rule, or (2) to override an episcopal veto, three-fourths of the sovereigns must agree, and two-thirds of the General Conference must concur with them. Now, is it to be argued that, because the constitution specifically prohibits a mere majority from doing either of these two things, therefore the prohibition extends to all of the reserved powers? Any correct reasoning seems to lead inevitably to the conclusion that these two prescriptions, instead of being declaratory of the general rule, are simply exceptions to it, and that the one article of the original constitution if written would now read thus: "Except in so far as otherwise provided in the constitution, the duly declared will of a majority of the traveling preachers is the supreme law of the Church."

The reserved powers are both express and implied. The express powers are those enumerated in the Re-

strictive Rules. There is nothing therein prohibited to the General Conference which the traveling preachers had not the power to do before 1808, and which they may not now do, by direct majority vote. They refused to part with those powers, and what they once possessed and have never parted with they still have. The principal implied power is that of altering the constitution except as that right is limited in the first proviso. This is possibly subject, however, to the further limitation that some sections of the constitution not covered by the proviso have been given their present shape by the concurrent votes of General and Annual Conferences in conformity to the rule of the proviso; and, having been adopted in that way, the Church would probably take the view, were the question raised, that they can be altered in that manner only. It is by no means clear that this view is correct, but it would doubtless prevail, and the question is hardly worth discussing. The implied power to annul the unconstitutional acts of the General Conference, as in 1820-24, has been defined and limited by the second proviso, and no longer rests upon implication.

To briefly recapitulate: In 1809-10, and again in 1820-24, the traveling preachers asserted reserved judicial powers; in 1858, and again in 1874, they exercised legislative powers which were denied to the General Conference; and in 1866 and in 1878 they went a step higher, and altered the constitution itself. None of these things were done or attempted by virtue of any power defined in the constitution of 1808 or its amendments; all were done in virtue of powers possessed by the traveling preachers prior to 1808 and never delegated, limited, nor surrendered by them. Having pro-

ceeded thus far, the Church needs to take but one step further to fully recognize the truth of the doctrine which this chapter is designed to elucidate. The one step which has not been taken is to recognize that the principle of majority rule obtains, and that not in a majority of the Annual Conferences, as assumed in 1820-24, nor in three-fourths of the traveling preachers and two-thirds of the General Conference, as assumed in 1858 and later, but in a simple majority of all the traveling preachers does the ultimate sovereignty reside. When it is considered that the constitution is absolutely silent as to the exercise of these reserved powers, and makes no prescription whatsoever as to the method of giving effect to them, it is not easy to see why it should ever have been considered necessary to secure the votes of three-fourths of the preachers in favor of a measure which a majority of them could have enacted before there was a constitution. Still more illogical is it to consider necessary the concurrence of two-thirds of the General Conference in a measure the power to enact which is expressly withheld from that body. When the fourth Restrictive Rule expressly says that the General Conference "shall not revoke or change the General Rules," by what system of logic can the conclusion be arrived at that the participation of that body is necessary in order to effect the revocation of one of those rules, as in 1858?

This further step toward the recognition of the doctrine of the residuary powers in its logical completeness will be taken by the Church when the necessity arises; and when taken, it will not be a longer stride than was taken between 1844, when it was thought that nothing prohibited by a Restrictive Rule could be done

even by the concurrent act of two-thirds of the General Conference and three-fourths of the preachers, without first amending the Restrictive Rule, and 1858, when that very thing was done, and without apparent question of its validity.

In all the foregoing discussion the traveling preachers have been spoken of exclusively as possessing and exercising alone the residuary sovereignty. So it was until lay representatives were admitted to the Annual Conferences in 1866, upon terms of complete equality with the traveling preachers except as to business involving ministerial character and relations. The terms of the provision for lav representation seem broad enough to confer upon the lay delegates a right to participate in every act of the traveling preachers that pertains to Church government.

The erroneous view that the Restrictive Rules are limitations of the power of the Church, and not merely of the General Conference, once led the Church into unspeakable trouble. The author believes that a correct apprehension of this doctrine of reserved powers in 1844 would have averted an Iliad of woes and saved from being written the saddest chapter but one in all the history of Methodism. Let us see. After many days of debate in the General Conference of that year, it was finally agreed with practical unanimity that a division of the Church was necessary for its continued existence. With little difficulty a line of cleavage was agreed upon, and also a fair and just basis for a division of the Book Concern property and assets. The leaders believed that to divide the property between the two branches of the Church would be an "appropriation of the produce of the Book Concern" such as the

General Conference was prohibited from making by the sixth Restrictive Rule, and that therefore that Rule must be gotten out of the way. They consequently sent the following down to the Annual Conferences:

> *Resolved,* That we recommend to all the Annual Conferences, at their first approaching sessions, to authorize a change of the sixth Restrictive Article, so that the first clause shall read thus: "They shall not appropriate the produce of the Book Concern, nor of the Chartered Fund, to any other purpose than for the benefit of the traveling, supernumerary, superannuated, and worn-out preachers, their wives, widows, and children, and to such other purposes as may be determined upon by the votes of two-thirds of the members of the General Conference.

The amendment, it will be observed, consisted in adding the words following "children." It would have had the effect, had it been adopted, not only to authorize a peaceable division of the Book Concern, but also to place the future produce thereof in both branches of the Church at the absolute disposal of two-thirds of their respective General Conferences, an enlargement of General Conference power for which there was no demand, and which, as a separate proposition, perhaps no one desired. Can it be believed that the conservative South would, under other circumstances, have given to it her support? Even thus handicapped, the proposition as a whole received 2,135 ayes, 1,070 nays, the South supporting it unanimously. Who can say that the additional 269 ayes necessary to make up the required three-fourths majority would not have been forthcoming but for the unfortunate and unnecessary lugging in of a provision for a permanent change of the Rule and a consequent vast and uncalled-for enlargement of General Conference power?

The fatal error, however, was in failing correctly to apprehend the real nature and purpose of the Restrictive Rules. Had that mistake not been made, the General Conference would doubtless have sent down to the Annual Conferences an overture like this: "Inasmuch as you have, in the constitution, withheld from the General Conference power to divide the Book Concern as proposed in the Plan of Separation, we hereby recommend that in the exercise of your residuary sovereignty you direct your servants, the Book Agents, to proceed to divide your property now in their custody according to the provisions of that Plan." Such a recommendation would have received the approving support of at least 2,135 traveling preachers as against a possible opposition of 1,070, and the property would have been divided and the incident closed before the meeting of the reactionary Northern General Conference of 1848.[1]

This doctrine of reserved powers has a vital relation to another question which may some day rise to vex the Church. Satisfied with our Articles of Religion and standards of doctrine, and fearing that at some period of upheaval and unrest there might arise a party which would seek to confer upon the delegated General Conference the same power to change them at pleasure which the old General Conference had possessed, the

[1] The result of the vote in 1844 is here given upon the authority of Bishop McTyeire ("History of Methodism," p. 645). He does not cite his authority. It is familiar history that the Supreme Court of the United States decided that a division of the property necessarily followed a division of the Church, and that the failure to alter the Restrictive Rule was immaterial. The contention of the writer, however, is that, even conceding that the Restrictive Rule was in the way of the General Conference, it was not in the way of the sovereign preachers.

Fathers, in 1828-32, eliminated from the constitution the process therein prescribed for consummating a delegation of power so dangerous. The constitution of 1808 provided a common means whereby any of the Restrictive Rules might be altered. In 1828-32 the "proviso at the close of the article numbered six of the Restrictive Rules" was altered so as to read: "Provided, nevertheless, that upon the concurrent recommendation of three-fourths of all the members of the several Annual Conferences who shall be present and vote on such a recommendation, then a majority of two-thirds of the General Conference succeeding shall suffice to alter any of the above restrictions, *excepting the first article,*" etc.

If the language here used was not skillfully contrived to conceal thought, then surely the purpose of this proviso was to prevent the traveling preachers from ever, even by a three-fourths majority, conferring upon the delegated General Conference the right to alter at will the doctrinal standards of the Church. That it was designed to take out of the hands of the traveling preachers, where it had always been, authority to revise the standards, does not appear in any word or syllable thereof; and those who fancy that the constitution puts it beyond the power of all recognized authority in the Church to revoke, alter, or change the venerable and venerated symbols of our faith, will find it difficult to point out the inhibition in the Restrictive Rules and the proviso.

Dr. Tigert, in his "Constitutional History of Episcopal Methodism," page 404, earnestly maintains that the effect of the constitutional amendment of 1828-32 (see p. 45) was simply to provide a new method of amend-

ing all the Restrictive Rules except the first, and that the old proviso of 1808 yet remains in force for amending that one. "The facts," he says, "are clear and indisputable. The General Conference of 1808 ordained a given method of constitutional amendment for all the Restrictive Rules. In 1828 the General Conference asked the Annual Conferences to alter this, for all the restrictions except the first. It was done. The General Conference did not ask for any change in the method prescribed for constitutionally amending the first restriction. The Annual Conferences did not have any such proposition before them. Hence the original prescription of 1808 remains in force." Its absence from the Discipline of 1832 and all subsequent editions down to the present he accounts for by saying that "the legislators of 1828-32 did not think it wise to suggest the mutability of the doctrines of the Church by incorporating in the Discipline a prescribed constitutional process for their alteration." That is to say, they thought it wise to leave such a process in full force and effect, but unwise to let anybody know it! It was to be a fountain sealed, a treasure hidden in a secret drawer, to be found by the heir when in direst need; a Baconian cipher, whose mystery should be yielded to those only who have the "second sight."

That Dr. Tigert's theory is untenable seems evident upon several considerations. First, it is precluded by the language employed by the General Conference of 1828 in submitting the amendment to the Annual Conferences for their action: "*Resolved,* That this General Conference respectfully suggest to the several Annual Conferences the propriety of recommending to the next General Conference so to alter and amend the rules of

our Discipline, by which the General Conference is restricted in its powers to make rules and regulations for the Church, commonly called the Restrictive Rules, as to make the proviso at the close of said Restrictive Rules, No. 6, read thus": then follows the text of the new proviso. Secondly, the language used by the General Conference of 1832 in approving and concurring in the recommendation of the Annual Conferences likewise excludes such an interpretation: "*Resolved,* By the delegates of the Annual Conferences in General Conference assembled, that the proviso at the close of the article numbered six of the Restrictive Rules be altered so as to read": etc. The clear intent, as shown by these two extracts (which constitute the only official records of the matter extant) was to alter the proviso following the sixth Restrictive Rule so as to read as indicated. Such language, in such connection, could, it would seem, have but one purpose, and that was, to change the phraseology, purport, and scope of the old proviso, and reënact it, the new form entirely taking the place of the old.[1] Thirdly, the disappearance of the old proviso from the Discipline, if it was not repealed, must be accounted for. Dr. Tigert says it was suppressed for prudential reasons by "the legislators of 1828-32." Where is the evidence? The General Conference speaks by its Journal, and the Journal gives no countenance to such a theory. If the editors of the

[1] Dr. Bangs ("History," Vol. IV., p. 106) and Bishop Paine ("Life of McKendree," Vol. I., p. 365), holding widely divergent views on the constitutional questions which agitated the early Church, and both members of the General Conferences of 1828 and 1832, concur in calling the new proviso a "substitute" for the old. Bishop Paine says that the old proviso was "stricken out," and the new one "substituted."

Discipline willfully omitted it, it was upon their own responsibility, and not by authority of the General Conference. The editors of the Discipline of 1832 were Daniel Ostrander, Nathan Bangs, and Beverly Waugh. Did these men assume the grave responsibility, for prudential, secret reasons, of knowingly mutilating the records committed to them for faithful publication, by suppressing a paragraph of fundamental and far-reaching importance; or did they omit it because ignorant of the fact that it was still in force? If they were ignorant of the true intent, what means of knowledge have we superior to theirs? If either willfully or ignorantly omitted, why did none of the men who participated in the passage of the amendment, and knew the facts, ever rise up in the General Conference thereafter and demand that the omitted paragraph be restored?

It will not do.

The question arises, Why should even the most "advanced" thinker and the highest critic, or the most conservative theologian in the Church, ever consider it desirable to amend the first Restrictive Rule? If it were thought necessary to further restrict the powers of the General Conference, that could be done by adding new rules, without altering the old. Is it, on the other hand, possible that any one could wish so to enlarge the powers of the General Conference as to turn over to it the whole matter of the doctrines to experiment with at pleasure? Why should it be deemed necessary to change the rule, even though a revision of the doctrinal statements be thought desirable? If the reasoning of this chapter be correct, it is no more necessary to alter the first Rule as preparatory to changing a doctrinal statement than it was in 1858 to revoke a General Rule.

The first Rule is neither a doctrine nor a standard of doctrine; it is simply a denial to the *General Conference* of control over the doctrinal statements. The preachers, prior to 1808, unquestionably had and exercised power to make creeds and establish standards of doctrine, and they did not give it up in 1808 or in 1832; they have never given it up. Whatever they could do in the premises before that it would seem that they can still do. They have expressly denied to themselves the power to delegate to the General Conference authority to revise the standards, but they have not thereby abdicated their own right to do so. If they desire to do that, let them put the Articles of Religion and a definition of the standards in the constitution itself, and thus guard them as securely as they do the other provisions of that instrument.

CHAPTER X.

Should the Constitution of the Methodist Episcopal Church, South, be Revised?

At its session in Baltimore, in May, 1898, the General Conference adopted the following preamble and resolution:

A Resolution Providing for the Appointment of a Commission to Define the Constitution of the Church.

Whereas certain differences of opinion now exist as to what is the Constitution of the Methodist Episcopal Church, South; and whereas it is highly important that all doubts upon the subject be removed, and at a time when there is no controversy pending that might prevent an unprejudiced investigation and settlement of the question; therefore,

Resolved, That the College of Bishops appoint a Commission, consisting of three elders and three laymen, to which the College of Bishops are requested to add one of their number, whose duty it shall be to ascertain and report to the next session of the General Conference what is the Constitution of the Church; and also separately, such amendments as they may recommend to render it symmetrical in form and substance, in order that the next General Conference may, if it see fit, send the same around to the several Annual Conferences for ratification and adoption.

In what respects does the constitution as it stands appear to be wanting in symmetry of form and substance; and what features does it lack which are usually regarded as fit and proper, if not essential, parts of a constitution?

1. It may be observed that our constitution nowhere declares or even mentions the name of the Church

whose fundamental law it is. Indeed, one may search in vain through the entire Discipline for any authoritative declaration fixing the name of the Church. The Christmas Conference, in 1784, formally adopted the name "Methodist Episcopal Church," and the Louisville Convention, in 1845, added the word "South" to distinguish the Southern organization; but no formal act adopting either of these names has been carried into the law book of either Methodism.[1] Propositions have been made to change the name of the Church, South, from time to time, and, curiously enough, it has been understood that such change must receive the concurrent support of two-thirds of the General Conference and three-fourths of the members of the Annual Conferences, as though there were a Restrictive Rule in the way of the General Conference making the change. In 1866 a proposition to adopt the name "Episcopal Methodist Church" received a two-thirds majority in the General Conference, and, being sent down, 1,183 votes were cast for and 409 against it in the Annual Conferences; but, failing of three-fourths of all the votes cast, the proposition failed.[2] The movers seemed to have the idea either that the name was in the constitution, and could be changed by that process only; or that it should be in it, and could be put there by that process only. It can hardly be disputed that every civil or ecclesiastical commonwealth and every body corporate should be accurately and precisely named in the instrument containing its fundamental law.

[1] Since the paragraph in the text was written the new constitution of the M. E. Church has been adopted, in which the name of that Church is duly set forth.

[2] A change of only eleven votes would have carried the proposition.

2. Our constitution seems incomplete in that it lacks a preamble such as almost all constitutions have of which the writer has knowledge. The usual and appropriate function of such a preamble is to set forth briefly the name of the State or organization, the general scope of its objects and aims, the character of the instrument itself as the fundamental law, and the authority from which it emanates. The preamble to the constitution of the United States is a model of its kind:

> We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

3. As has been shown elsewhere, the constitution of 1808 consists of two parts, one of which defines the composition, etc., and the other the powers of the General Conference. Singularly enough, a specific method is provided for altering the second division, but none for the first. This is anomalous in constitution-making, and calls for correction. Unquestionably this oversight at the beginning has left the way open for the mutilations to which the instrument has been subjected, as set forth elsewhere.

4. While the constitution provides for and defines in exact terms lay membership in the Annual Conference, it makes no formal provision for clerical membership. Due regard for symmetry would seem to require that both classes, if either, have their rights and relations defined in the fundamental law.

5. The District Conference should be recognized and the method of appointing its members should be fixed

by a general provision. It, on its lay side, should be given authority to elect lay delegates to the Annual Conference.

6. The form is objectionable in several particulars: (1) It hardly comports with the dignity of the instrument to have it stated in the crude form of question and answers, and it was not so shaped by the committee which reported it to the General Conference of 1808. The editor of the Discipline of that year supplied the question. (2) Answer 1 presents the curious spectacle of a mutable number, or more properly, perhaps, a blank, in the body of a constitution, to be filled and changed from time to time at pleasure by the legislature, within limits elsewhere specified in the instrument. Such an inartificial and clumsy arrangement for fixing the number of delegates in the General Conference is open to improvement. (3) The section admitting lay representation to the Annual Conferences is grafted upon a purely statutory rule defining the clerical membership of that body, and begins in the midst of a sentence. The statutory rule itself has been amended since the graft was made, so that the sentence as a whole is now entirely different. (4) The provisions concerning representation in the General Conference are inconveniently and unnecessarily disconnected, part being in Answers 1-3, and part in the second Restrictive Rule. This has made possible a singular and unfortunate confusion and conflict of statement, noted below. (5) Answer 3 is a repetition of what is contained in Answer 1 and the second Restrictive Rule. It is surplusage, pure and simple.

7. A comparison of Answer 1 with the second Restrictive Rule discloses a distinct conflict of provisions

as to the parity of lay and clerical representation. The first provides that the number of clerical and lay delegates from an Annual Conference shall be equal. The Restrictive Rule provides that "when there shall be in any Annual Conference a fraction of two-thirds the number which shall be fixed for the ratio of representation, such Annual Conference shall be entitled to *an additional delegate* for such fraction." It will be seen that, no matter whether preacher or layman be chosen as the additional delegate, the parity of numbers between clerical and lay delegates will be destroyed. In order to preserve the parity which is confessedly of fundamental importance, the practice has been, under the ruling of the bishops, to elect *two* where the Restrictive Rule authorizes *one* additional delegate.[1]

8. The time at which the General Conference meets has not conformed to the constitutional provisions on the subject since 1844. The text of the constitution as printed in the Discipline has been altered, but not the constitution itself. It should be made to agree with the practice of half a century.

9. The constitution requires the General Conference to fix the places for its meetings, and it is doubtful whether that body is authorized to delegate the power to a commission as it has done for sixteen years past. Such power should be distinctly given it.

10. If an emergency should ever arise requiring the General Conference to be promptly assembled in extra session, it could not be done under the present provi-

[1] Here is a case in which the plain letter of a Restrictive Rule is by common consent made to yield to the equally plain letter of a provision to which some deny the character of fundamental law.

sion. The constituency of a called General Conference should also be defined.

11. Some more adequate provision should be made in the constitution itself for a harmonious system for the judicial interpretation of the constitution and laws. It is amazing that the experience of 1844 has not caused to be adopted a constitutional delimitation of the judicial powers of the General Conference.

12. The paragraph on the veto power, giving an appeal upon pure questions of law to a court of six thousand untrained judges, sitting in fifty sections, scattered from Rio Janeiro to Shanghai, should be reduced to reasonable terms.

13. The basis of lay representation in the Annual Conferences is the number of presiding elders, and in the General Conference the number of preachers, plus four laymen for each presiding elder's district. For reasons given elsewhere,[1] the basis of representation needs to be changed so as to take into account the whole Church, and not simply the ministerial order.

14. The present second Restrictive Rule is objectionable because of the necessity of changing it from time to time. It now provides that there shall never be less than one delegate for every sixty members of an Annual Conference. The effect of this provision is to render it necessary to amend the constitution as the Church increases in size in order to prevent the General Conference from becoming too large and unwieldy. A better plan would appear to be to amend the rule so as to provide that its membership should never exceed a fixed number, and leave the body free to apportion the

[1] See p. 55, *supra*.

representation from time to time within that limit. In the General Conference of the Methodist Episcopal Church at Chicago, in 1900, there were something like eight hundred delegates. In an assembly so large as that, conference and deliberation are rendered extremely difficult, if not practically impossible. Would it not be well to provide that the General Conference shall never have over three hundred members?

15. For nearly two decades there was a tremendous struggle in the Methodist Episcopal Church over the admission of women as delegates to the General Conference. Those who opposed it upon constitutional grounds contended that the word "laymen" in the constitution meant men only, while others as stoutly maintained that the word was the equivalent of lay members, and did not indicate sex. The struggle terminated in the adoption of the new constitution, in which the only change made on that subject was the insertion of "lay delegates" or "lay members" where "laymen" previously occurred. It is admitted upon all hands that the substituted words render women eligible. In the paragraph of the constitution of the Southern Church which defines the membership of the General Conference, the word "laymen" is not used, but we have there already the very words—"lay delegates," "lay members," "lay representatives"—which the party in favor of female representation in the Northern Church made such a tremendous and finally successful struggle to introduce into their constitution. There is, therefore, vastly more room, under the letter of our constitution, for contention in favor of the "rights of women" than there was under the former constitution of the Methodist Episcopal Church, and it is impossible to foresee just how

soon those neutral words may be seized upon as the basis of a hurtful agitation among us. Is it not the part of wisdom, while the mind of the Church is practically a unit on that subject, to anticipate and forestall trouble by substituting such terminology as will unmistakably prevent the question of female representation from being raised as a constitutional right?

16. The present language of the provision for the episcopal veto is simply permissive; the bishops *may* present their objections to unconstitutional acts. If there is a provision of this constitution which should be more absolutely and unequivocally mandatory in terms than this, the writer does not know which it is. They who are set specially to guard the constitution ought to be required to scrutinize every act of the General Conference, and to veto every one that may be found to infringe the fundamental law.

17. The new constitution of the Methodist Episcopal Church takes it out of the power of a mere majority of the traveling preachers to change the Articles of Religion or the General Rules, by putting them all in the constitution, so that they can be amended only by the concurrent votes of the three constitution-making bodies. It would be well to throw some such safeguard around them in our constitution also. The plan of itinerant general superintendency, which is the corner stone of our ecclesiastical system, should likewise be put beyond the control of a mere majority of the traveling preachers.

CHAPTER XI.

The New Constitution of the Methodist Episcopal Church: 1900.

The General Conference of the Methodist Episcopal Church held in Chicago in May, 1900, submitted to a vote of the Annual Conferences a complete revision of their constitution, and, having received the approval of over three-fourths of the traveling preachers, it is now the constitution of that Church. An attentive perusal will well repay the interested student.

PREAMBLE.

In order the better to preserve our historic heritage, and the more effectually to coöperate with other branches of the one Church of Jesus Christ in advancing the kingdom of God among men, we the ministers and laymen of the Methodist Episcopal Church, in accordance with the methods of constitutional legislation in force among us, hereby ordain, establish, and set forth as the fundamental law or Constitution of the Methodist Episcopal Church the Articles of Religion, the General Rules, and the Articles of Organization and Government, here following, to wit:

DIVISION I.

ARTICLES OF RELIGION.

DIVISION II.

THE GENERAL RULES.

DIVISION III.

ARTICLES OF ORGANIZATION AND GOVERNMENT.

Part I.

Pastoral Charges, Quarterly and Annual Conferences.

Article I. Pastoral Charges. — Members of the Church shall be divided into local Societies, one or more of which shall constitute a pastoral charge.

Article II. Quarterly Conferences.—A Quarterly Conference shall be organized in each pastoral charge, and be composed of such persons and have such powers as the General Conference may direct.

Article III. Annual Conferences.—The traveling preachers shall be organized by the General Conference into Annual Conferences, the sessions of which they are required to attend.

Part II.

The General Conference.

Article I. How Composed.—The General Conference shall be composed of ministerial and lay delegates, to be chosen as hereinafter provided.

Article II. Ministerial Delegates.—Section 1. Each Annual Conference shall be entitled to at least one ministerial delegate. The General Conference shall not allow more than one ministerial delegate for every fourteen members of an Annual Conference, nor less than one for every forty-five; but for a fraction of two-thirds or more of the number fixed by the General Conference as the ratio of representation an Annual Conference shall be entitled to an additional delegate.

Section 2. The ministerial delegates shall be elected by ballot by the members of the Annual Conference at its session immediately preceding the General Conference. Such delegates shall be elders, at least twenty-

five years of age, and shall have been members of an Annual Conference four successive years, and at the time of their election and at the time of the session of the General Conference shall be members of the Annual Conference which elected them. An Annual Conference may elect reserve delegates, not exceeding three in number, and not exceeding the number of its delegates.

Section 3. No minister shall be counted twice in the same year in the basis for the election of delegates to the General Conference, nor vote in such election where he is not counted, nor vote in two Conferences in the same year on a constitutional question.

Article III. Lay Delegates.—Section 1. A Lay Electoral Conference shall be constituted quadrennially, or whenever duly called by the General Conference, within the bounds of each Annual Conference, for the purpose of electing lay delegates to the General Conference, and for the purpose of voting on constitutional changes. It shall be composed of lay members, one from each pastoral charge within its bounds, chosen by the lay members of the charge over twenty-one years of age, in such manner as the General Conference may determine. Each pastoral charge shall also elect in the same manner one reserve delegate. Members not less than twenty-one years of age, and holding membership in the pastoral charges electing them, are eligible to membership in the Lay Electoral Conference.

Section 2. The Lay Electoral Conference shall assemble at the seat of the Annual Conference on the first Friday of the session immediately preceding the General Conference, unless the General Conference shall provide otherwise.

Section 3. The Lay Electoral Conference shall organize by electing a President and Secretary, shall adopt its own Rules of Order, and shall be the judge of the election, returns, and qualifications of its own members.

Section 4. Each Lay Electoral Conference shall be entitled to elect as many delegates to the General Conference as there are ministerial delegates from the Annual Conference. A Lay Electoral Conference may elect reserve delegates, not exceeding three in number, and not exceeding the number of its delegates. These elections shall be by ballot.

Section 5. Lay members twenty-five years of age, or over, holding membership in pastoral charges within the bounds of the Lay Electoral Conference, and having been lay members of the Church five years next preceding, shall be eligible to election to the General Conference. Delegates elect who cease to be members of the Church within the bounds of the Lay Electoral Conference by which they were elected shall not be entitled to seats in the General Conference.

ARTICLE IV. Credentials.—The Secretaries of the several Annual and Lay Electoral Conferences shall furnish certificates of election to the delegates severally, and send a certificate of such election to the Secretary of the preceding General Conference immediately after the adjournment of said Annual or Lay Electoral Conference.

ARTICLE V. Sessions.—Section 1. The General Conference shall meet at 10 o'clock on the morning of the first Wednesday in the month of May, in every fourth year from the date of the first Delegated General Conference—namely, the year of our Lord 1812—and at

such place in the United States of America as shall have been determined by the preceding General Conference, or by a Commission to be appointed quadrennially by the General Conference, and acting under its authority; which Commission shall have power also, in case of emergency, to change the place for the meeting of the General Conference, a majority of the General Superintendents concurring in such change.

Section 2. The General Superintendents, or a majority of them, by and with the advice of two-thirds of all the Annual Conferences, shall have the power to call an extra session of the General Conference at any time, constituted in the usual way; such session to be held at such time and place as a majority of the General Superintendents, and also of the above Commission, shall designate.

Section 3. In case of a great emergency two-thirds of the General Superintendents may call special sessions of the Annual Conferences, at such time and place as they may think wise, to determine the question of an extra session of the General Conference, or to elect delegates thereto. They may also, in such cases, call extra sessions of the Lay Electoral Conferences for the purpose of electing lay delegates to the General Conference.

Article VI. Presiding Officers. — Section 1. The General Conference shall elect by ballot from among the traveling elders as many General Superintendents as it may deem necessary.

Section 2. The General Superintendents shall preside in the General Conference in such order as they may determine; but if no General Superintendent be present, the General Conference shall elect one of its members to preside *pro tempore*.

Section 3. The presiding officer of the General Conference shall decide questions of order, subject to an appeal to the General Conference; but questions of law shall be decided by the General Conference.

Article VII. Organization. — When the time for opening the General Conference arrives, the presiding officer shall take the chair, and direct the Secretary of the preceding General Conference, or in his absence one of his assistants, to call the roll of the delegates elect. Those who have been duly returned shall be recognized as members, their certificates of election being *prima facie* evidence of their right to membership: *provided*, however, that in case of a challenge of any person thus enrolled, such challenge being signed by at least six delegates from the territory of as many different Annual Conferences, three such delegates being ministers, and three laymen, the person so challenged shall not participate in the proceedings of the General Conference, except to speak on his own case, until the question of his right shall have been decided. The General Conference shall be the judge of the election, returns, and qualifications of its own members.

Article VIII. Quorum.—When the General Conference is in session, it shall require the presence of two-thirds of the whole number of delegates to constitute a quorum for the transaction of business; but a less number may take a recess or adjourn from day to day in order to secure a quorum, and at the final session may approve the journal, order the record of the roll call, and adjourn *sine die*.

Article IX. Voting.—The ministerial and lay delegates shall deliberate together as one body. They shall also vote together as one body with the following

exception: A separate vote shall be taken on any question when requested by one-third of either order of delegates present and voting. In all cases of separate voting it shall require the concurrence of the two orders to adopt the proposed measure; except that for changes of the constitution a vote of two-thirds of the General Conference shall be sufficient, as provided in Article XI.

ARTICLE X. Powers and Restrictions.—The General Conference shall have full power to make rules and regulations for the Church under the following limitations and restrictions, namely:

Section 1. The General Conference shall not revoke, alter, nor change our Articles of Religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine.

Section 2. The General Conference shall not organize nor authorize the organization of an Annual Conference with less than twenty-five members.

Section 3. The General Conference shall not change nor alter any part or rule of our government so as to do away episcopacy, nor destroy the plan of our itinerant General Superintendency; but may elect a Missionary Bishop or Superintendent for any of our foreign missions, limiting his episcopal jurisdiction to the same respectively.

Section 4. The General Conference shall not revoke nor change the General Rules of our Church.

Section 5. The General Conference shall not deprive our ministers of the right of trial by the Annual Conference, or by a select number thereof, nor of an appeal; nor shall it deprive our members of the right of trial by

a committee of members of our Church, nor of an appeal.

Section 6. The General Conference shall not appropriate the produce of the Book Concern, nor of the Chartered Fund, to any purpose other than for the benefit of the traveling, supernumerary, and superannuated preachers, their wives, widows, and children.

ARTICLE XI. Amendments.—The concurrent recommendation of two-thirds of all the members of the several Annual Conferences present and voting, and of two-thirds of all the members of the Lay Electoral Conferences present and voting, shall suffice to authorize the next ensuing General Conference by a two-thirds vote to alter or amend any of the provisions of this constitution excepting Section 1, Article X.; and also, whenever such alteration or amendment shall have been first recommended by the General Conference by a two-thirds vote, then so soon as two-thirds of all the members of the several Annual Conferences present and voting, and two-thirds of all the members of the Lay Electoral Conferences present and voting, shall have concurred therein, such alteration or amendment shall take effect: and the result of the vote shall be announced by the General Superintendents.

Barclay, Wilbur Fisk.

The constitution of the Methodist Episcopal churches in America, by Wilbur Fisk Barclay ... with an introduction by Jno. J. Tigert ... Nashville, Tenn., Dallas, Tex., Publishing house of the M. E. church, South, Barbee & Smith, agents, 1902.

134 p. 19cm.

1. Methodist Episcopal church, South—Government. 2. Methodist Episcopal church—Government. I. Title.

CCSC/mr

Library of Congress BX8340.B35

331269